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2012-10-22

Command Inspection of Naval  
Postgraduate School ; 5040 ; Ser  
N00/1015 ; 22 October 2012 ;  
UNSECNAV Ltr of 16 Apr 12 ;  
SECNAVINST 5040.3A



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**DEPARTMENT OF THE NAVY**  
NAVAL INSPECTOR GENERAL  
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YARD DC 20374-5006

IN REPLY REFER TO:

5040

Ser N00/1015

22 Oct 12

From: Naval Inspector General  
To: Secretary of the Navy

Subj: COMMAND INSPECTION OF NAVAL POSTGRADUATE SCHOOL

Ref: (a) UNSECNAV ltr of 16 Apr 12  
(b) SECNAVINST 5040.3A

1. Per references (a) and (b), the Naval Inspector General (NAVINSGEN) conducted a Command Inspection of the Naval Postgraduate School (NPS) from 4 to 22 June 2012. The mission of NPS is to prepare students to lead transformation and leverage and manage change in tomorrow's complex and technically challenging world.

2. The primary goal of the inspection was to provide Navy leadership with a complete and accurate picture of the operations at NPS. The end result did accomplish our goal; however, our findings are not favorable to NPS and impact just about all NPS activities.

3. The overarching problem, as our report demonstrates, is that NPS chooses not to follow governing Navy rules, regulations and laws in the conduct of the majority of its programs, because it will not reconcile its academic philosophies and ideals with the governing standards. We observed that NPS systematically and regularly excludes subject matter experts from its decision making process and refuses to consider advice that conflicts with desired courses of action. The NPS Counsel and Inspector General offices are viewed as impediments to the success of the NPS academic mission. This conclusion is supported in part by e-mail exchanges among the senior academic community concerning the "interference" of the legal office that solicit thoughts on how to neutralize that office. For example, excerpts from exchanges describe the Counsel's office as: "impediment"; "obstacles to success"; "shooting down every idea he [Provost] had"; and "Counsel may be doing all the right things as they see the job, but the campus is seeing it as meddling, stop signs, and new impediments to getting their jobs done. Folks are now starting their lists of offenses."

Subj: COMMAND INSPECTION OF NAVAL POSTGRADUATE SCHOOL

4. Throughout our report, we made recommendations that, if implemented, would in our view begin to bring NPS into order and compliance. We emphasize that this report is but one of several previous NAVINSGEN or NAVAUDSVC reports which in many cases duplicate findings and recommendations; but such recommendations have been willfully ignored or consciously corrected in an inappropriate manner. We highlight this history, because we strongly believe that unless our recommendations and findings are translated into specific "directed" actions by Navy leadership, NPS will not alter its policies or change its business practices. The failure of NPS to comply with governing standards is a direct result of the lack of oversight and the autonomy it's been given.

5. For example, after our on-site inspection and advice, an NPS senior executive continues to blatantly circumvent Counsel's advice and fiscal regulations, by stating that NPS does not want to engage in an effort to change policy unless directed. The executive goes on to state that, given the NAVINSGEN scrutiny NPS is currently experiencing, if the school could successfully mitigate other concerns, it wouldn't have to change its policy. This atmosphere of defiance of statutory requirements and the Department of the Navy rules and regulations must cease.

6. NPS must rebuild: (1) its administrative and compliance operations to adhere to Navy and Federal regulations, rules and policies; (2) institutional processes to track mission and reimbursable funding from receipt to expenditure and enforce policy and procedures required of Navy commands. Finally, they must cease the systematic disenfranchisement of naval officers exercising positions of authority at NPS.

7. My point of contact is Ms. Andrea E. Brotherton, the Deputy Naval Inspector General. Ms. Brotherton can be reached at 202-433-2000, DSN 288-2000, or e-mail [andrea.brotherton@navy.mil](mailto:andrea.brotherton@navy.mil).



J. P. WISECUP

Copy to:  
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## OBSERVATIONS AND FINDINGS

1. The Under Secretary of the Navy directed the Naval Inspector General (NAVINSGEN) to conduct a comprehensive inspection and, where necessary, investigation of the Naval Postgraduate School (NPS). NAVINSGEN conducted a Command Inspection of NPS from 4 to 22 June 2012.<sup>1</sup> To prepare for the inspection, we augmented the inspection team with subject matter experts from several offices, including: the Assistant Secretary of the Navy (Manpower and Reserve Affairs), the Assistant Secretary of the Navy (Research Development and Acquisition), the Assistant Secretary of the Navy (Financial Management and Comptroller), the General Counsel of the Navy, the Chief of Naval Research, and the Naval Audit Service (NAVAUDSVC). In addition, we augmented the team with subject matter experts from the Chief of Naval Operations (CNO), including the Naval War College and the Chief of Naval Personnel. Appendix A provides the NPS team list. To prepare for the on-site inspection, we reviewed several key documents. These included the NPS command brief, significant issues of previous NAVINSGEN inspection reports, the NAVAUDSVC draft report of 6 June 2012 regarding contracts awarded for NPS, recent NPS command climate assessments, and issues previously identified by Navy leadership. Unlike our normal command inspection process, this inspection specifically focused on the following areas: mission; fiscal management; personnel management, academic integrity; resource management; composition and recruitment of the student body; safety compliance; and intelligence oversight and security.

2. NAVINSGEN and NAVAUDSVC determined the following areas will be reviewed and its findings released by the NAVAUDSVC as audit work:

a. Official Travel. Conduct a review of an appropriate sampling of official travel. Identify significant or recurring fraud, waste, or abuse related to travel to refer for further investigation as necessary. Identify internal controls to minimize errors or abuse.

b. Property Management. Identify internal controls and compliance with accounting requirements for pilferable items. Conduct a review of an appropriate sampling of employee official use of wireless telecommunication devices. Review the support provided to NPS by the Naval Postgraduate School Foundation (hence forth, referred to as the Foundation).

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<sup>1</sup> NAVINSGEN expended \$249K to conduct the NPS Command Inspection. This cost does not include the salaries of the team members.

c. Funding of Food, Beverages, Entertainment, Flowers and Decorations, and Gifts (to others). Identify internal controls used to ensure compliance with applicable laws and regulations on the management of these funds.

3. The mission of NPS is to prepare students to lead transformation and leverage and manage change in tomorrow's complex and technically challenging world. NPS empowers student minds with advanced knowledge culled from cutting-edge, defense related research; by blending classroom experiences into a hands-on pedagogy that links theory and reality; and by teaching and inculcating creative, innovative thinking that prepares students to continue to learn, grow, adapt and lead in future, unknown environments.

## **I. MISSION PERFORMANCE**

1. Overview. The Mission Performance team reviewed the NPS mission performance and related metrics, processes related to mission performance, strategic planning, requirements, and training. Specifically, the team focused on the following areas:

a. Statutory Function. How NPS is fulfilling its statutory primary function which is to provide advanced instruction, professional and technical education, and research opportunities for commissioned officers of the naval service.

b. Academic (didactic instruction) Requirements. Identify measures of the quality of instruction and the match between the curriculum and the requirements of the active duty Navy.

c. Research Requirements. Examine the balance of instruction and research, identifying how research is contributing to education or is divorced from it. Review the history of research efforts at NPS and identify any recent changes to the number, quality, and purpose of the research projects. Identify measures of the quality of instruction and the match between the curriculum and the requirements of the active duty Navy. Review the process for preparing and submitting research proposals, identifying internal controls to ensure approved research projects are within the authority of NPS and do not create personal or organizational conflicts of interest or violate any other law or regulation.

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d. NPS Structure. Examine adherence to the appropriate chain-of-command for NPS as set forth in law, regulation, and policy. Identify significant additional taskings that have been given to the NPS by higher authority or generated internally.

e. Intelligence and Security. While not specifically tasked as a review area for this inspection, findings of the Mission Performance team drove a deeper review of the NPS posture regarding national security information.

2. Observations. Graduate level education is a necessary component for the development of Navy and Marine Corps officers to meet various mission requirements of the Department of the Navy (DON). The initial recruitment of officers into the naval service populates the officer ranks from diverse undergraduate degree programs. There are certain naval officer populations and programs that require a more specific educational background to complete the Department's mission. Over 42% of NPS graduates in engineering and science disciplines have an undergraduate background in liberal arts; NPS provides prerequisite undergraduate courses for these officers who would not be admitted to civilian technical graduate degree programs because of their lack of a qualifying degree. In addition, the curriculum at NPS has been tailored to the educational needs of DON and timelines that facilitate naval careers. This tailored service currently is not available at civilian graduate level programs.

a. The strategic vision implemented in 2008 to become a top-tiered research institute is commendable and should not be discouraged. However, this pursuit has not been properly executed (discussed in respective sections of this report) and some research initiatives and expansions are not necessarily correlated with educating naval officers. The focus on research by NPS management and faculty has detracted from the importance of educating naval officers. NPS has focused on increasing research funding and research positions at NPS which is a component of becoming a larger research institution but not necessarily a top-tiered research institution. NPS can increase its status as a research institute by encouraging an increase in faculty achievement of recognized research accomplishments and creating a legacy of students that achieved research excellence.

b. In the course of conducting the inspection, we observed a repeated lack of compliance with fundamental DON programs. The severity of these non-compliances with various DON programs and procedures will be addressed in the other sections of this

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report and within their respective topics. While commands have mission and function instructions to establish their mission, complying with DON programs and procedures that are governed by various DON instructions is also an integral part (and expectation) of meeting mission requirements.

c. A consistent theme from the highest level of NPS leadership to the lower ranks of the faculty was that NPS cannot operate as a Navy command (and adhere to DON programs and procedures) because doing so would be in direct conflict with the business practices that are necessary for operating a university. While leadership and faculty assume that NPS operates in a manner common to other universities, we found NPS neither operates as a Navy command nor the universities it strives to model itself after. Additionally, the concept of academic freedom was often cited by NPS leadership and faculty as a reason for the lack of structure in processes and command programs. In reality, we found that the NPS leadership and faculty extended valid concerns about academic freedom to the extent that they were justifying lack of compliance with DON processes, procedures and policies.

3. Statutory Authority to Educate Students. After the 2009 NAVINSGEN inspection, some questions about statutory authority to educate various categories of personnel remained unanswered. Subsequently, by memorandum dated 25 June 2010, the NPS Staff Judge Advocate (SJA) provided a detailed review of the matter. Most of the statutes appear in Chapter 605 of Title 10, United States Code (U.S.C.), which establishes the NPS and sets forth its authority to educate personnel and grant degrees. The categories of personnel mentioned in those statutes include: U.S. military personnel including enlisted members and reserve officers (Title 10 U.S.C. 7041, 7045); military officers of foreign countries (Title 10 U.S.C. 7046); students at other institutions of higher learning on an exchange basis (Title 10 U.S.C. 7047); and Defense Industry Civilians (Title 10 U.S.C. 7047). The SJA memorandum included a matrix identifying each of the Chapter 605 statutes and Title 5 U.S.C. 4107, discussed below. The memorandum also states that NPS "lacks statutory authority to permit the attendance of civilian employees who have no federal government affiliation."

a. NPS looks to Title 5 U.S.C. 4107, Academic Degree Training, for its authority to train civilian employees of other federal agencies. Enacted in 1958 as part of the Government Employees Training Act (and originally codified at Title 5 U.S.C. 2301 et. seq.), the statute authorizes federal agencies

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to pay for employee academic degree training at governmental and non-governmental facilities. The history of the legal determination of its applicability to NPS is interesting, at least to lawyers, and is summarized here because the question of NPS' authority to invoke this statute has been raised several times over the years.

b. In January 1959, only a few months after passage of the Act, the DON's Office of Industrial Relations requested the Chief of Naval Personnel (CNP) authorize the training of a "limited number of civilian personnel in the Management School of [NPS]," observing that DON civilians had been receiving management development training at Army facilities. Recognizing that none of the NPS enabling statutes authorized the training of civilian personnel at that time, CNP requested a legal opinion from the Judge Advocate General (JAG).

c. Focusing exclusively on the language in Title 10, and relying in part on a 1951 JAG opinion, the JAG concluded NPS did not have the authority to train civilians. DON thereupon requested a legislative fix, but in reviewing the proposed legislation, the Department of Defense (DoD) Office of the General Counsel concluded the Government Employees Training Act already authorized NPS to educate federal civilians and issued a memorandum to that effect dated 17 December 1962. By memorandum dated 9 April 1963, the JAG rescinded his earlier opinions on this subject. When this question came up again in 1975, the JAG relied on the 1962 DoD legal memorandum and on 2 August 1976, ASN (M&RA) signed out SECNAVINST 12410.17, "*Civilian use of Educational Facilities at Naval Postgraduate School*" which established the policy that in selecting educational facilities to meet training needs, "NPS be given first consideration for civilian employees." The lesson we take from this discussion is that the statutory authority and regulatory authority for NPS educational efforts that is not set forth in Chapter 605 should be memorialized in a SECNAV instruction.

d. Also, in follow-up to the 2009 IG report, the Assistant Secretary of the Navy (Financial Management and Comptroller) (ASN (FM&C)), was asked to determine if NPS could charge overhead to reimbursable orders. ASN (FM&C) letter Ser ASN (FM&C)/U170 of 23 September 2010 provides opinions on the statutory authorities of NPS to educate each category of students by education program with the exception of hiring and subsequent education of research assistants. The letter confirmed that NPS could charge overhead to reimbursable orders.

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The letter included a review of NPS statutory authority that identified the same Chapter 605 authorities as did the NPS SJA memorandum, and mentioned the authority to accept qualifying research grants provided in Title 10 U.S.C. 7050, which requires SECNAV to issue implementing regulations. The letter did not discuss the authority to educate federal civilian employees under Title 5.

e. Subsequently, NPS personnel expanded the matrix included in the SJA memorandum to cover other categories of personnel, including civilians in federal agencies outside of DoD. For example, the matrix indicates NPS relies on a provision of the Arms Export Control Act, Title 22 U.S.C. 2770(a), "Exchange of training and related support," for authority to educate civilian foreign defense agency personnel.

f. A footnote in the NPS SJA memorandum of 25 June 2010 indicates that NPS has the authority to accept reimbursement from other agencies pursuant to the Economy Act, citing Title 31 U.S.C. 1535, "Agency agreements." The ASN (FM&C) memorandum did not address the Economy Act and its discussion of reimbursable funding appears to be limited to military and civilian personnel within DoD. In reviewing the NPS SJA memorandum and matrix in 2011, the Chief of Naval Personnel Legal Office (CNP Legal) raised concerns about the NPS authority to collect fees under Title 5 U.S.C. 4107 that led to an e-mail exchange between that office, the NPS SJA, and OPNAV N1, N135 (Personnel Readiness and Community Support) over the authority of NPS to collect reimbursable fees from agencies outside of DoD. This exchange, which relied on information provided by third parties and included a comparison of the authority of Air Force Institute of Technology (AFIT) to NPS, does not appear to have been resolved. While we expect that an agency that has the authority to provide educational services under Title 5 U.S.C. 4107 has the authority to be reimbursed by the agency whose employees receive the training, and the Economy Act may be an appropriate mechanism, it may be the case that NPS needs additional regulatory authority to accept payments when they come from sources outside of the DoD. For example, OPNAVINST 5450.210C, cited in the exchanges, expressly authorizes NPS to "collect the cost of instruction from" the Departments of the Army, Air Force, Homeland Security, and defense industry contractors, but does not mention employees of other federal agencies.

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g. We were provided documents that discuss other NPS initiatives to train civilian personnel. For example, in 2002, NPS maintained it has the authority to educate state and municipal government employees who perform homeland defense activities pursuant to Title 42 U.S.C. 4742, "Admission to Federal Employee Training Programs," and DoDINST 4000.19. NPS invokes the Economy Act and authority to enter into Interagency Personnel Agreements (IPAs) to obtain reimbursement for these efforts. However, it also received a 14 June 2002 opinion from the Department of Justice Office of General Counsel indicating it was not necessary for NPS to enter into an IPA when training state and local emergency responders because the NPS training would be provided under the authority of the Office for Domestic Preparedness to provide training to respond to terrorist attacks.

h. More recently, NPS has sought to provide additional training to non-federal civilian personnel pursuant to the SMART<sup>2</sup> Scholarship Program, the Federal Cyber Corps, the DoD Contractors Program, the Global Research Assistant Programs, and the National Security Institute. There is statutory authority for the SMART and Cyber Corps programs that requires subsequent government service or reimbursement of tuition costs. No such authority has been identified for the other programs. A 2009 series of e-mails on this topic explains that the Provost was seeking to get more civilians to attend NPS with the expectation or hope they would obtain employment with the federal government upon graduation. The e-mail exchange, which included attorneys at the Office of Naval Research, expresses skepticism about the legal authority for the efforts that are not grounded in statute. We have been unable to obtain information indicating these concerns have been resolved. Assuming the authority to engage in such efforts exists, it is appropriate to ask, as we suggest below, whether DON leadership wants NPS to engage in such activity.

i. NPS relies on Title 22 U.S.C. 2770(a), "Exchange of training and related support," as authority to educate civilian foreign defense agency personnel. This statute, part of the Arms Export Control Act, authorizes the President of the United States, acting through the Secretary of a military department, to "provide training and related support to military and civilian defense personnel of a friendly foreign country or an international organization." The statute requires an agreement for reciprocal training of U.S. personnel or reimbursement of the cost of training the foreign personnel, and an annual report to Congress. The President of the United States has delegated

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<sup>2</sup> Sailor/Marine American Council on Education Registry Transcript.

his authority to the Secretary of Defense. We requested NPS provide copies of its recent submissions for the annual report, but did not receive them.

j. We also learned that NPS has entered into several agreements for the exchange of professors, students, and research efforts with such institutions as the National University of Singapore, the German Jordanian University/Talal Abu Ghazaleh College of Business, and the Jordanian Armed Forces/Royal Jordanian National Defense College. These documents have at various times been called either non-binding statements of intent or letters of accord. NPS has not identified the authority it has to enter into agreements for the provision of such services with foreign governments or universities, except to the extent it is dealing with foreign defense agencies and its military and civilian personnel. We reviewed a series of e-mail exchanges between NPS and the Navy International Program Office (NIPO). According to NIPO attorneys, the purpose of its support to NPS has been to assure that NPS does not inadvertently enter into international agreements that require extensive documentation and approval by OSD. NIPO has explained to NPS that it does not conduct the activities or enter into the type of agreements that are contemplated by the statements of intent or letters of accord. NIPO has also said it may not sub-delegate any of the authority it has received from OSD to NPS.

k. Assuming legal authority exists or may be established for the underlying exchange of professors, students or research contemplated by these statements of intent or letters of agreement, the central question, in our opinion, is whether NPS should be engaging in those activities.

l. Two of the statutes NPS relies on for its authority, Title 10 U.S.C. 7049 and Title 22 U.S.C. 2770(a), impose requirements to make determinations and issue reports. Pursuant to Title 10 U.S.C. 7049, which authorizes NPS to educate defense industry employees, the Secretary of the Navy must make an annual determination that providing instruction to them in the coming year (1) will further the military mission of NPS; (2) will enhance the ability to reduce the product and project lead times required to bring defense systems to initial operational capability; and (3) will be done on a space-available basis without requiring an increase in the NPS faculty, course offerings, or infrastructure. We requested NPS provide recent Secretarial determinations, but did not receive them. We previously noted that NPS also did not provide us the annual reports required by Title 22 U.S.C. 2770(a).

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## **RECOMMENDATIONS**

040-12 That SECNAV determine the mission, function, and task of NPS.

041-12 That General Counsel of the Navy (GC) confirm that NPS has authority to accept funds that reimburse it for the expense of educating federal civilian personnel pursuant to Title 5 U.S.C. 4107.

042-12 That SECNAV determine whether it is in the Department's interest for NPS to educate non-DoD personnel pursuant to such programs as SMART, Cyber Corps, DoD Contractors Program, Global Research Assistant Programs, or the National Security Institute; if so, GC should determine whether existing authority is sufficient to undertake these efforts and propose remedial legislation if necessary.

043-12 That SECNAV determine whether it is in the Department's interest for NPS to enter into programs with foreign universities for the exchange of professors, students and research efforts; if so, GC should determine whether existing authority is sufficient to undertake these efforts and propose remedial legislation if necessary.

044-12 That DON/AA determine whether the annual reports required by Title 22 U.S.C. 2770(a) are being submitted and if they are not, take appropriate action to ensure they will be submitted in the future.

045-12 That DON/AA determine whether the SECNAV annual determinations required by Title 10 U.S.C. 7049 are being made and if they are not, take appropriate action to ensure they will be made in the future.

046-12 That, although the e-mail exchange indicates that ASN (FM&C) personnel thought it appropriate to charge tuition for "federal civilian students," we recommend that ASN (FM&C) confirm this; and with GC, identify the specific statutory and/or regulatory authority, and suggest any language that would be prudent to add to existing authority, such as OPNAVINST 5450.210D.

047-12 That NPS, under direction of CNO, develop a matrix that identifies all current functions and the corresponding authority upon which NPS relies to perform these functions. GC should determine whether cited authority is appropriate, identify any additional authority supporting these functions, and recommend whether additional authority is required.

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#### 4. Academic (didactic instruction) Requirements

a. NPS delivers graduate master and doctoral degree programs, graduate level certificate programs, and professional development courses. Graduate degree programs include 56 resident degree programs and 18 distance learning programs. NPS offers 38 certificate programs with various delivery formats including resident, distance learning, or combination of resident and distance learning (hybrid delivery). NPS provides various professional development courses that range in duration from a few days to weeks with resident, distance learning, or hybrid delivery including mobile education teams domestically, afloat, and internationally. Professional development courses, referred to as "short courses," are training courses that do not qualify for academic credit.

(1) These various academic programs and courses undergo comprehensive levels of external and internal curriculum reviews. Part of the external curriculum review process occurs through four accrediting bodies: Western Association of Schools and Colleges, Accreditation Board for Engineering and Technology, The Association to Advance Collegiate Schools of Business, and National Association of Schools of Public Affairs and Administration.

(2) Eighty-Four percent of the in-residence degree curricula respond to Navy and Marine Corps sponsors and are subject to a biennial curriculum review process, which establishes and updates the essential skill requirements expected of graduates. Eighty-Nine percent of the distributed learning degree programs and 72% of the NPS certificate programs have DON sponsors and also undergo this curriculum review process. This level of collaborative curriculum review with sponsor involvement allows the curriculum to be responsive to the requirements of DON. An examination of the collaborative curriculum review process found that it is generally an effective process that serves sponsors and NPS appropriately. However, a notable exception is the friction between the Graduate School of Operational and Informational Sciences (GSOIS) and OPNAV N2/N6 who sponsors three GSOIS curricula. The Dean of GSOIS indicated they reached an impasse and temporarily suspended the curriculum review process. The Dean of the Graduate School of Engineering and Applied Sciences indicated it was more difficult than normal, but his school had recently successfully completed curriculum reviews with OPNAV N2/N6 for its sponsored curricula.

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## **RECOMMENDATION**

048-12 That NPS develop standard procedures for collaborative curriculum review with sponsors (where there is also a business relationship). The procedure should contain safeguards to ensure sponsors do not compromise fundamental graduate level educational requirements for rigor or length of time of educational programs. NPS should maintain a majority voice in how curriculum is best delivered.

b. NPS conducts internal curriculum reviews through the NPS Review and Assessment Program (RAP) Framework. RAP is an academic measures and metrics program that facilitates comprehensive assessment and improvement of all of the academic programs conducted by NPS. The Western Association of Schools and Colleges visiting team indicated that NPS was a "model for others" for mapping course work for program outcomes (a key component to effective curriculum review). Recent modifications, that include new program reviews, have made the curriculum review process more responsive and transparent which should improve an already solid system of ensuring the education is directly tied to current and future requirements of DON. While the new NPS program process requires both sound academic and business cases for approval, it does not formally solicit approval from DON leadership prior to implementation.

## **RECOMMENDATION**

049-12 That NPS include the Navy's Education Coordination Council in its new program review process.

c. The effectiveness of the quality of instruction can be captured by these various metrics: establishing a correlation between program outcomes and learning objectives in coursework (part of curriculum review), performance of students in coursework, end of quarter student surveys, alumni surveys, and surveys of sponsors (or supervisors of the students after graduation). Collectively, inspection of these metrics indicated that most students and sponsors/supervisors were satisfied with the effectiveness of the quality of education. However, there were students and faculty who would routinely refer to NPS as "a pump and not a filter." The perception was that all the students will graduate (> 98% graduation rate) regardless of performance and that a student would have to "work at it" to actually fail a course or not graduate.

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d. The NPS 2008 Strategic Plan shifted the focus of NPS to become a "naval/defense oriented research university" that also provides graduate education. From 2007 to 2010, total sponsored program (education, research and services) funding doubled and research funding tripled, while mission funding from DON remained static, or declined. This influx of funding and discussions with faculty indicate that research and reimbursable programs are the first thought of many at NPS. Collectively, with the emphasis of NPS on becoming a top-tiered research institute, and "a pump and not a filter" perception among a significant representation of faculty and students, there are some indicators that NPS is not appropriately focused on educating (didactic teaching of) naval officers.

#### **RECOMMENDATION**

050-12 That NPS renew its commitment to educating naval officers in its Strategic Plan.

5. Research Requirements. Graduate education requires research for thesis or capstone project completion. The NPS research program provides students with thesis opportunities, develops the faculty, and provides solutions to DoD and Federal sponsors. DoD sponsors 82% of NPS research and 17% is sponsored by other Federal entities, such as the Department of Homeland Security and the National Science Foundation. The remainder of research stems from industry Cooperative Research and Development Agreements (CRADA). As discussed previously, we are concerned that NPS' research focus is not geared toward opportunities for student development, but rather is designed to establish NPS as a research university. Potential benefits to students are often an afterthought.

a. The NPS 2008 Strategic Plan highlights an institutional shift towards becoming a "naval and defense oriented research university" that also provides graduate education. From 2007 to 2010, total sponsored program (education, research and services) funding doubled, research funding tripled, while mission funding from DON remained static, or declined. Discussions with faculty also indicated that the pursuit of research and reimbursable funding had become a paramount theme at NPS. This ongoing requirement for obtaining significant reimbursable funding has the potential to detract from the principal teaching mission.

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b. NPS deliberately increased its faculty size growing from 197 faculty members in 2001 to 589 in 2007. For Fiscal Year 2010 (FY10), NPS had 591 faculty members of which 241 were tenure-track, 131 were non-tenure-track teaching, and 219 were non-tenure-track research. While this 49% growth significantly increased instructional and research capacity, the faculty growth was not programmed with mission funds; for FY10, 51% of the faculty Full Time Equivalents (FTE) positions were mission funded. NPS must use a combination of sponsored-education and sponsored-research to obtain reimbursable funding to afford the remaining faculty 49% FTE positions.

c. *Balance of Research and Education.* After the issuance of OPNAVINST 5450.210C in September 2007, NPS began shifting its emphasis from a teaching institution to that of a research university. An early indication of this shift may be found in language contained in the 2008 NPS Strategic Plan, "Vision for a New Century." NPS selected 15 top tier research universities (such as Cal Tech, Carnegie Mellon, Duke, MIT, Rensselaer, and Stanford) as peers for benchmark comparisons. NPS then embarked on a path that placed increased focus and emphasis on research while intending to sustain high value on teaching.

(1) The institution's executive leadership uniformly states the principal reason for a research program is to create student research opportunities. By contrast however, the Deans of the four schools and other faculty members emphasize research as their primary function and mention student research merely as an afterthought and only when questioned. Faculty members are encouraged and evaluated on their ability to find sponsors to fund faculty research efforts for faculty development and scholarship; or for projects important to DON, DoD, or the joint and interagency community. Research also serves to sustain the scholarly standing of the faculty members within their academic disciplines and to provide cutting-edge solutions for challenges to the naval service and the U.S. national security community.

(2) Deans serve in a "business development" capacity for NPS. The prevailing mindset at the leadership and working levels is that sponsored research, which brings in reimbursable funds to help make payroll and other educational costs, is more important than creating meaningful student research opportunities. The Deans regard the production of reimbursable funding as a high value for DON, repeatedly stating every \$1 direct investment by DON in NPS reaps \$3 more. Aside from the Dean of the Graduate School of Business and Public Policy, none of the School's executive leadership circle expressed a need for any limit or ceiling on reimbursable efforts and funding.

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d. In the coming era of fiscal restraint, it is our opinion/view that there is some risk in the pursuit of reimbursable funding. First, if federal research funding is reduced, the competition for the remaining monies will be tougher and likely require more time and effort by the NPS faculty competing for research projects. Second, if this federal funding is reduced, the NPS faculty may seek additional funding from the private sector which may not readily facilitate student research opportunities as directly related to the student's essential skill requirements. It is unclear whether NPS possesses the legal authority to seek private sector funding.

### **RECOMMENDATIONS**

051-12 That ASN (FM&C) review NPS' current funding structure and that the GC determine whether NPS has the legal authority to seek private sector funding.

052-12 That ASN (FM&C), in coordination with OPNAV N1, establish a percent ceiling on CRADA-funded projects to ensure the student research opportunities continue to directly support graduate education.

e. *Research Contribution to Education.* Student research is integral to the NPS educational methodology with all degree granting curricula requiring a thesis or a capstone project which accounts for 11% of the coursework. The preponderance of the degree curricula requires a thesis averaging 60 to 70 pages. Thesis research is normally conducted over the last three quarters for students in-residence. From 2008 to 2010, the vast majority of students (>70%) reported a close correlation of coursework and research; students believed the thesis or capstone project valuably contributed to their educational experience. Alumni reported their thesis had a "moderate" to "high" relevance to their career. The alumni also indicated that their research ability had been enhanced while at NPS.

(1) NPS academic departments routinely solicit research topics or areas from the curriculum sponsor with mixed results. About 70% of the students conduct research on topics provided by their faculty advisors which may support either the interests of the major area sponsor or a sponsored research project in which the faculty member is involved. Nearly 30% of the naval students arrive at NPS with a research project already in mind, often based on their fleet experience. The Dean of Research oversees the thesis process for students from the four schools,

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collecting data to measure the success of the process of advising, reviewing, and completing. Student survey-based data shows a steady-state 70% satisfaction rate with the thesis process and close to 90% of students graduate on time after submission of a thesis or capstone project.

(2) The four schools at NPS provide visibility to student research both formally and informally. At the biennial curriculum review, major areas' sponsors are regularly briefed by students on their research products. The better projects are often forwarded by the responsible faculty advisor to the relevant Navy or Marine Corps office. The quarterly research newsletter of the Graduate School of Business and Public Policy provides equal coverage to student and faculty research papers. Nearly all of the student theses are forwarded to the Defense Technical Information Center for access across DoD.

f. *Research Proposal Process.* NPS does not have an effective central research proposal process. While NPS is striving to become a top-tiered research institute, their lack of a controlled and well established central research proposal process is not consistent with a research institute of excellence. The lack of a quality centralized research proposal process assumes unacceptable risk for NPS and NPS faculty. NPS lags woefully behind many other DoD educational institutions, research institutes, and civilian universities with their inappropriate and underdeveloped research proposal process.

(1) Research proposal processes differ at various NPS levels: school, department, etc. The current processes (noting that not one particular process is followed) generally bypass or ignore several administrative reviews that would ensure the research programs and funds are properly acquired, tracked and expended by NPS. There are limited or trivialized Safety, Facility, Hazardous Materials, Intelligence Oversight, Security, Legal, or Comptroller reviews in the current processes. The research proposal routing process was under revision during our inspection to include specific reviews; however the lack of school-wide adherence to administrative procedures leaves considerable doubt that the changes to the process will produce an effective system for administratively vetting all aspects of a research project to comply with DoD and DON standards. The revised procedure was still unorganized and was not widely accepted by faculty during our inspection.

(2) Worth noting are the observations of one Associate Dean who had not seen one research proposal within his respective school to be reviewed during his entire time at NPS; this Assistant Dean was unhappy about this process. In addition, a research director stated that while there is a process for reviewing research protocols, faculty (in practice) did not have to adhere to this process. Faculty can make arrangements for research funds with a sponsor, the sponsor can send the money to the university, and then the faculty can fill out minimal level paperwork to gain access to the research funds.

(a) The NPS research approval process is simply not adequate in identifying potential hazards and following DON and Federal protocols. A recent example is the procurement and operation of Unmanned Air Systems (UAS) outside of the Naval Air Systems Command (NAVAIR) flight clearance procedures. NPS recently destroyed a non-NAVAIR cleared \$35K UAS during field experimentation. In 2009, the NPS Free Electron Laser program was shut down by the Naval Sea Systems Command Detachment, Radiological Affairs Support Office (NAVSEADET RASO) for non-compliance with radiation safety programs. Although recertified to operate at reduced power levels, the acquisition and use of a Free Electron Laser had neither approval nor oversight from NAVSEADET RASO.

(b) Likewise, there is a pervasive belief throughout the NPS faculty that academic pursuits, particularly research and academic collaboration (academic freedom), would suffer from strict interpretation of national security policy and procedures. This deficiency will be addressed in the Intelligence Oversight section of this report.

(c) Another notable problem area is the lack of audit readiness of research funds and the application of uneven indirect rates to different projects. This is a source of frustration for Principal Investigators charged with managing all aspects of NPS research projects. This deficiency will be discussed further in the Fiscal Management section of this report.

## **RECOMMENDATION**

053-12 That NPS develop a centralized research proposal process to ensure proposals are reviewed for compliance with DoD and DON regulations. The research approval process must strengthen internal adherence to administrative reviews for Safety, Hazardous Materials, Intelligence Oversight, Security, Legal and Comptroller procedural compliance.

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6. NPS Structure. NPS, like many military colleges, has to deal with a dual culture, since it is a graduate education institution which must operate as a DON military organization. The large faculty is primarily civilian academics with a focus on research first and education second; many bring their habits and culture from civilian academia and often view the federal rules and DON policies as an impediment to their desired courses of action. The smaller military faculty and staff have a different perspective on those rules and regulations and a tension exists. During our visit we observed that the prevailing culture is one where the minority military faculty has little, if any, impact on the NPS. The civilian academic leadership and tenured professors asserted control over the school during the early to mid-2000s when the NPS President (henceforth referred to as the President) changed from an active duty military officer, who served for a normal three to five year term, to a senior civilian (retired military). This academic leadership model has influenced NPS's desire to be comparable to a civilian research university. The civilian academics control the institution through various committees and voting structures that determine the leadership of the four graduate schools and the advancement of non-tenured professors to tenured positions. From a DON perspective, this has had the effect of creating a culture of non-compliance which is abetted by the current leadership. This structure has systematically side-lined the military instructors and staff as well as compliance-minded civilians, resulting in the diversion of resources away from establishment of an acceptable and functioning educational administrative structure for this institution. The current leadership is hostile to following statutes and regulations. There are documented instances where the NPS Counsel and Inspector General were dismissed as impediments to the success of the NPS academic mission, when they raised concerns or identified violations of laws and regulations. Action such as relocating the Counsel's office from the main building to a cottage-style building away from senior leadership and relocating the Inspector General's office from an office on the first floor in an area that provides the free-flow and privacy of customers, to an office in the west wing on the 4<sup>th</sup> Floor may be viewed as regression to compliance and oversight; especially when the Naval Postgraduate School Foundation, a non-Government entity, and a prayer room, occupy the two offices that were vacated.

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a. *Chain of Command.* As stated earlier, we found that NPS did not operate in a manner consistent with a Navy command and in some instances, did not follow practices similar to those used by the universities that NPS strives to model itself after. We attribute this to the multiple external funding sponsors. Twenty-Eight percent of NPS certificate programs have other Federal sponsors. Programs are initiated in a variety of ways, by direction from DON leaders, by request from joint or interagency partners, or by NPS outreach. NPS leadership is directly responsible for the rapid increase in sponsored programs, as evident in their 2008 Strategic Plan. An additional factor of concern with non-DON programs is the inability of NPS to assure the OPNAV staff that mission funds are not used to support these programs. The Advanced Education Review Board (AERB) and NPS Board of Advisors (BoA) have limited visibility into new (high-profile) programs and do not execute an explicit review and approval of all new programs.

#### **RECOMMENDATIONS**

054-12 That SECNAV realign NPS under the Secretariat staff.

055-12 That SECNAV modify the Department's AERB process to include explicit review of all new programs, including externally sponsored programs, at NPS.

b. *Leadership.* NPS has a retired flag officer as President and an Air Force Colonel (O-6), Electrical Engineering PhD, as Chief of Staff (COS). An Air Force COS is required by a 4 December 2002 Memorandum of Agreement (MOA) between DON and the Air Force (Appendix B pertains). The NPS Provost has expanded his purview beyond executing the academic program to the administrative (military, financial, etc.) functions of the school. This further impedes the effectiveness of NPS to function as a Navy organization. In the absence of day-to-day direction from the President, the Provost has assumed de facto leadership of the organization and has marginalized the military leadership structure by creating a void between the President and the COS. Senior military professors and staff are assigned as "Associate Deans," charged with the handling of administrative details while reporting to civilian PhD faculty. This creates an additional void in military leadership between the COS and NPS military faculty. Further confusing the leadership structure, NPS has created several Vice President (VP) positions. The current construct places an individual (the COS) with limited knowledge of the administrative functions of a Navy command in a key position of leading the military staff of NPS to drive policy compliance.

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## **RECOMMENDATIONS**

056-12 That SECNAV appoint a committee to review the NPS organizational structure and present recommendations to reorganize NPS to comply with DON requirements as well as to preserve academic integrity.

057-12 That SECNAV rescind the 2002 MOA with the Air Force and assign a post-major command Navy or Marine Corps line O-6 to the NPS COS billet.

058-12 That SECNAV consider assigning an Executive Director to handle the administration of the daily activities of NPS.

059-12 That SECNAV direct a review of the VP structure at NPS for appropriateness and legality.

7. Intelligence and Security. Although an academic institution, the NPS curriculum and research objectives occur at multiple classification levels and focus on multiple national security topics such as intelligence, special operations, and weapons systems performance. As a DoD entity supporting national security activities, all related national, DoD and DON security policy applies. As outlined above, the NPS approach towards vetting all research projects lacks rigor - across the board - in ensuring compliance with DoD and DON security standards. Discussion with NPS faculty and staff revealed a pervasive cultural bias that academic freedom is threatened by rigorous application of security considerations.

a. *Special Security Office.* A review of the NPS Special Security Office (SSO) functions found the program to be in compliance with national, DoD and DON policies. The NPS SSO office is adequately manned and resourced. The NPS Sensitive Compartmented Information Facility (SCIF) meets DIA and SSO Navy physical security requirements. Management of SCI-cleared personnel (both faculty and students) is sound with appropriate attention given to investigation/reinvestigation actions and defensive threat briefings. Although NAVINSGEN's initial review of NPS (September 2011) raised concerns that some SCI-cleared faculty were bypassing foreign travel notification requirements, as of this report NPS SSO is tracking travel and enforcing compliance. OPNAV resourcing of SCI computing and communications infrastructure is sufficient to support SCI-level teaching, research and conferencing needs.

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b. *Intelligence Oversight.* A specific issue is the lack of an overarching NPS review program to identify potential intelligence oversight concerns during research activities. Multiple lines of research, including faculty and student interaction with national and local law enforcement entities, use of sensors on manned and unmanned vehicles, and work with demographic and other social databases present heightened risk of intelligence oversight violations. Yet, when asked how they were ensuring compliance with intelligence oversight policy, NPS faculty members (with few exceptions) provided little response aside from citing the need for "academic freedom." While intelligence oversight policy is only applicable to the NPS intelligence and intelligence-related activities, there is no systematic review process and training to distinguish covered activities and potential grey areas that require legal review.

c. *Classification Review.* NPS does not conduct a unified and systematic review of research proposals to ensure compliance with DoD classification guidelines. The current safeguard relies on each student and his respective faculty advisor to identify any classified aspect of research on the research proposal form. NPS has the facilities and resident expertise to support the full spectrum of classified collaboration, research and production - that process works well when applied. However, elements of the NPS faculty are deliberately reluctant to establish classification as that action would limit ability to publish in an open source environment. Another significant area of risk here is in the aggregation of "academic" information against sensitive military objectives such as defeating adversarial weapon systems. Lack of a formal mechanism to identify and protect (in classified domains) such information can result in compromise of Critical Program Information and sensitive war fighting tactics, techniques and procedures. Finally, we also note that NPS has no appointed Foreign Disclosure Officer or process despite the presence of foreign national students and faculty and linkages with foreign militaries and the global academic community.

## **RECOMMENDATIONS**

060-12 That NPS appoint a designated Intelligence Oversight Officer to ensure all research proposals are in compliance with Executive Order 12333, DoD Regulation 5240.1 and SECNAVINST 3820.3E.

061-12 That NPS establish a more formal and robust approach to reviewing research proposals and papers against formal classification guides.

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062-12 That NPS appoint a trained and designated Foreign Disclosure Officer to ensure all research proposals are in compliance with Disclosure Policy (NDP1) and SECNAVINST 5510.34A.

## **II. FISCAL MANAGEMENT**

1. Overview. The Fiscal Management team reviewed the NPS fiscal system, including funding of services and fundraising process. Specifically, the team focused on the following areas:

a. *Fiscal System.* Conduct a review of the fiscal management system to include appropriated funds, non-appropriated funds, sponsor funds, grants, tuition, fees, and gifts.

b. *Funding.* Review the funding of food, beverages, entertainment, flowers and decorations, and gifts.

c. *Fundraising.* Examine fundraising and other revenue-generating activities by faculty, staff, and other employees.

2. Fiscal System. NPS established the position of Vice President for Finance and Administration (VPFA) approximately three years ago; the position was established as a result of a study conducted by LMI, a not-for-profit government consulting firm. The VPFA "...serves as the Chief Financial Officer for NPS, overseeing all business and supporting functions, including development of strategic resourcing plans." The President designated the VPFA as his "chief financial advisor," but the VPFA does not serve as the Comptroller of the organization. Instead, the Comptroller reports to the VPFA. The Comptroller's current reporting violates SECNAVINST 7000.27A, which requires the "commanding officer or head of an activity that receives allocations or sub-allocations of funds subject to the Anti-Deficiency Act (ADA) (Title 31 U.S.C. 1341 or 1517) shall have a qualified comptroller who reports directly to the commanding officer." The position, as structured, allows the VPFA to usurp the authority and autonomy of the Comptroller. The Comptroller previously met with the President weekly (schedule permitting), but now meets only with the VPFA, who then meets separately with the President. We observed a general disregard for appropriate use of government funds and, because the President is not advised by the Comptroller, we are unsure if he received adequate advice on these matters from the VPFA who has no experience with federal appropriations. With the exception of the current Comptroller and Contracting Officer, no NPS official overseeing budget formulation has any experience with federal appropriations prior to assuming their current duties at NPS.

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## **RECOMMENDATION**

063-12 That NPS re-align the Comptroller back to direct reports, both functionally and administratively, to the President, as the central point of contact for all financial matters. This realignment would also remove the VPFA from all matters dealing with comptroller function.

3. Fiscal Structure. We examined the following key aspects of the NPS fiscal management structure:

a. *Kuali Financial System (KFS)*. KFS is an internal financial system oriented to managing commercial university budget requirements. This system is used for managing project funding within NPS. This system is not used by the other two Navy educational institutions - USNA and NWC - and it creates an unnecessary commercial financial system to manage.

(1) Funds are not loaded in KFS until the Comptroller, or his designated authority, has signed acceptance of the funds documents.

(2) Principal Investigators and Program Managers manage execution of reimbursable sponsored program funds within KFS through development of Budget Worksheets within the system. Budget Worksheets break out the funding by expense category and establish the project budget within KFS.

(3) KFS is not partitioned into sections that restrict access based on need, but rather, all NPS personnel, including some students, contractors and foreign nationals, have the ability to log into the system and view all funding information contained therein. This is especially troubling because the system contains acquisition-related information, including what may be proprietary contractor or trade secret information or PII. A further review will be necessary to completely ascertain the full array of information available to users of KFS.

## **RECOMMENDATION**

064-12 That NPS, in coordination with the NAVAUDSVC and ASN (FM&C), conduct a review of KFS with an emphasis on sensitive information to include PII and contractor proprietary or trade secret information. If the systems cannot restrict access to sensitive data, NAVINSGEN recommends discontinuing use of KFS and conforming to the current DON financial systems (STARS) used by the USNA and NWC.

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b. *Reconciling Indirect Costs.* NPS does not reconcile the indirect costs projected in establishing overhead recovery rates against what is actually collected and then against how the collected funds are spent. The NPS Comptroller is unable to verify that indirect funds are not augmenting mission funding (paying for expenses that were not part of the approved recovery model). Prior to our inspection, ASN (FM&C) directed NPS to verify the indirect rate accurately reflected in expenses incurred throughout the fiscal year. To date, NPS has resisted this direction, and has not provided documentation to substantiate its indirect rates.

#### **RECOMMENDATION**

065-12 That NPS verify the indirect rates and provide documentation to substantiate its finding to ASN (FM&C).

c. *Unauthorized Commitments.* NPS has an unacceptable number of unauthorized commitments; the School provided a list of 11 unauthorized commitments (5 in FY10; 1 in FY11; and 5 in FY12). Likely these unauthorized commitments occur because NPS fails to reconcile its books.

(1) The largest item is for \$299,915 for contracted ship rental. Ratification was denied by the supporting contracting office at NAVSUP Fleet Logistics Center San Diego. NPS feels the best solution may be for the vendor, San Jose State, to file a claim against the government and so has advised the vendor.

(2) On the list for 2012, one individual, the Director of Center for Executive Education, is listed as the responsible party for two unauthorized commitments. We requested copies of any disciplinary actions taken against any personnel that committed unauthorized commitments. However, there were no records or documentation available to verify that any sort of corrective action was taken to prevent further instances of unauthorized commitments.

#### **RECOMMENDATION**

066-12 That NPS enforce its written policy of "zero tolerance" for unauthorized commitments of funds with follow-up counseling and disciplinary action, per NPS Instruction, as appropriate.

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d. *Contractor Functions.* The Contracting Officer position was established in February 2011, to administer contract functions at NPS. The Contracting office and associated personnel were moved out of the Comptroller organization and to the VPFA, who has no previous government service, or experience with federal acquisition, but has worked entirely in the private academic field prior to assuming this position at NPS. We observed the VPFA's lack of understanding of government regulations as well as an apparent lack of desire to adhere to these regulations.

#### **RECOMMENDATION**

067-12 That NPS realign the Contracting officer as a direct report to the President.

068-12 That NPS segregate the contracting and the comptroller personnel in a separate "financial/procurement personnel only" section to control personnel traffic through the sensitive area.

e. *Fiscal Management.* NAVINSGEN reviewed published instructions for management of resources at NPS. Governing instructions were universally out of date. No instructions have been updated and/or issued since the arrival of the VPFA, so we were unable to validate the roles and responsibilities of the position in command instructions. In addition, the instructions relating to collection and use of indirect overhead are at least 10 years old and do not reflect the current process for development of overhead rates to be applied to reimbursable projects, what the funds may be used for, requirements to reconcile overhead accounts, etc. This was an area cited repeatedly by NPS employees as a source of confusion and contention at NPS. The indirect overhead was often labeled as a "tax" on reimbursable sponsor funds, with little understanding of what it was paying for or how it should be calculated.

#### **RECOMMENDATION**

069-12 That NPS, in coordination and approval by ASN (FM&C) and ASN (RD&A), periodically review and update all financial management and contracting instructions to comply with governing laws and regulations.

(1) *Development of Mission-Funded Budget.* The NPS practice has the VPFA and the Vice Provost Academic Affairs (VPAA) as the individuals overseeing development of the NPS direct mission-funded budget. The VPAA is also heavily involved in the development of reimbursable budgets.

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(2) *Reimbursable Sponsored Projects.* The Comptroller does accept all funding documents on behalf of NPS. Reimbursable sponsored projects are negotiated by Principal Investigators in the various schools, establishing the agreement on what will be provided and what the costs are for performance of the requested services. Once a project is accepted and funding document(s) are received and accepted by the Comptroller, a Budget Worksheet is built in the in-house KFS to distribute the funds to the Principal Investigators and track allocation of the reimbursable funds. The KFS also assesses the indirect costs at the Job Order Number (JON) level and is used to manage collection of indirect overhead recoveries based on actual earnings against the project funding. The Comptroller states that he reviews questionable purchases, documents his concerns, provides advice to leadership, and then acts as directed. Additionally, the Comptroller states that he has "memoranda for the record" on any funding documents that he had objections to processing. During the interview, we did not review any of these "memoranda for the record" because we did not want to potentially and inadvertently cross lanes into the ongoing investigation.

(3) *Indirect Rates.* Indirect overhead rates are tracked via JON within KFS, but most of the JON assignments of cost are done outside of the Comptroller's office. The major direction for execution of the funding is performed in each school/department by the Principal Investigators who oversee reimbursable projects. The Principal Investigators have final say, in practice, on how the funds are spent, with the Comptroller's office merely processing the documents per JON as the Principal Investigators direct. The Comptroller's office structure supports accurately accounting for and administering appropriations correctly, ensuring KFS data is captured in STARS<sup>3</sup> via manual means. However, the execution of funds is so

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<sup>3</sup> STARS stands for Standard Accounting and Reporting System. The total system includes: Standard Accounting and Reporting System Financial Departmental Reporting/Major Command Reporting (STARS FDR/MCR) ; STARS/HQ (Headquarters); STARS/FL (Field Level); and STARS/OP (One Pay). STARS/FL maintains the accounting for the Navy and numerous DoD appropriations for approximately two-thirds of the total Navy annual budget. It is a standardized accounting system. It combines financial management for multiple major commands with automated data processing to provide general fund accounting support to the Navy. The system is a tool that helps managers at Navy installations control most of the funding that is spent or received as part of normal activities. It satisfies regulatory and statutory requirements governing accounting processes. STARS/FL provides a means of tracking allocated funds from the time they are authorized through the life cycle of the appropriation at the field level. STARS/FL provides the DFAS site and Funds Administrator Activity (FAA) with real-time financial information.

decentralized within each school and department, through their KFS budget worksheet process, that the comptroller has become little more than the "clearing house" for documents with little practical control over the process.

(4) *Timekeeping Reimbursement.* Timekeeping issues exist in getting hours charged to the appropriate reimbursable JONs. NPS often processes supplemental labor adjustments for 300 to 400 employees per pay period. Attestation of hours appears to be an on-going problem because of the seemingly recurring nature of the required pay adjustments every pay period. As examples:

(a) The Comptroller provided six samples of supplemental adjustments to time and attendance. On average, supplemental adjustments were submitted three pay periods after the subject period in which the hours were worked. In one instance, the adjustment was submitted eight pay periods after the original hours were worked.

(b) Two of six samples provided were for adjustment to leave charges. The other four were to move charges from direct JONs to reimbursable JONs or between reimbursable JONs.

(c) Documentation of the reasons for adjustments is minimal, i.e. "incorrect JON entered." If the program personnel have signed the request, it is accepted and processed.

(d) Practice indicates possible efforts to "spend down" reimbursable funding by moving charges to or among reimbursable JONs.

(e) To validate our findings, we reviewed 12 additional random labor supplemental adjustments to see if the pattern is consistent. These additional samples validated the general trends in adjustment of time from direct to reimbursable JONs, among reimbursable JONs, and in one case for leave adjustment.

f. *Unused or Unobligated Funds.* Timeliness of returning unused or unobligated funds to reimbursable customers is managed poorly. We did not observe an adequate project review process in place to return unexecuted funding to customer activities to provide these activities an opportunity to further use the returned funding for other potential requirements. The NPS process relies upon Sponsored Program Financial Analysts and Principal Investigators (non-comptroller or financial analysts) to identify when a project is complete and no further charges

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are anticipated. Interaction and decision authority for the return of potentially unused reimbursable funds does not reside with the NPS Comptroller personnel.

(1) Per DoD regulation, funds should be de-obligated in a reasonable timeframe to allow requesting activities the opportunity to make further use of the funds. Such a decentralized process, relying so heavily on Principal Investigators who are not trained financial analysts or experts, represents a high risk to DON Total Operating Authority (TOA) from the various departmental activities that entrust funds to NPS for various research projects.

(2) The DoD Financial Management Regulation (FMR), Volume 11A, Chapter 3, Section 030404 Appropriation Policy, paragraph b, De-Obligation, states: "Transactions undertaken in reliance on authority conferred by the Economy Act are subject to statutory authority imposed by Title 31 U.S.C. 1535(d) governing when excess funds must be de-obligated. The amount obligated by the ordering agency or unit must be de-obligated to the extent that the servicing agency has not incurred obligations before the end of the period of availability of the ordering appropriation. It is critical that activities reconcile the obligation status of Economy Act orders and de-obligate unused funds, as needed, before the end of the funds availability. Funds must be de-obligated by both the requesting and servicing agency to the extent that the servicing agency or unit filling the order has not, before the end of the period of availability (fiscal year or multiple year period, as applicable) of the appropriation of the requesting or ordering agency, (1) provided the goods or services, or (2) entered into an authorized contract with another entity to provide the requested goods or services."

## **RECOMMENDATIONS**

070-12 That NPS perform monthly reconciliations of indirect reimbursable funding to better account for actual work performed on reimbursable JONs, and allow for any unused funds to be returned to research sponsor organizations with sufficient time remaining in the fiscal year to allow them to obligate the funds on other requirements.

071-12 That NPS maintain sufficient written documentation for substantiating pay period adjustments between reimbursable JONs, and a quarterly report submitted to the President via the NPS OGC providing written justification for all adjustments that transfer labor costs between JONs that are done more than two pay periods after the original labor was certified.

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g. *Management of Financial Processes.* Senior staff advisors in the financial management arena - VPFA, VPAA, Principal Investigators - draw their experience from the civilian university environment, vice having strong government financial management experience. It is our conclusion that they often use this civilian university experience to make decisions and choose paths forward, which are sometimes in conflict with DON and DoD policy and guidance. We observed in some cases, considerable effort is expended to find ways around the rules rather than to develop plans and strategies that accomplish the mission within governing rules and policies. Sound advice provided by the Contracting Officer, Counsel, Comptroller and others is often challenged, ignored, or labeled an impediment. For example, the current NPS Contracting Officer and the current NPS Counsel determined that the position of NPS Acquisition Chairman should be an "inherently governmental" position despite the fact that a government contractor is the incumbent of the position. The Counsel's advice to transition to a government employee has been ignored. Without altering current business practices to be fiscally compliant with DoD regulations, NPS is at increased risk of ADA violations and risks not meeting the DoD directive for producing fully auditable financial statements by the 2017 deadline.

(1) We conclude that the NPS management has engaged in a systematic effort to marginalize any advice concerning DoD and DON financial management regulations and policy that conflicts with NPS desired business model. There is a pervasive tension between the academic staff and the administration of NPS that makes it difficult for the organization to function effectively within DON and DoD policies. The focus of the organization has shifted to emphasize competing for reimbursable business, particularly in the field of academic research, with civilian universities. We heard the comment that NPS benchmarks itself to Stanford, UC Berkley, and MIT. While academic research is an integral part of maintaining a world-class faculty, it is difficult to determine the appropriate level of research for a government university such as NPS. It seems that this focus on the reimbursable aspects of NPS has brought the institution into conflict with governing guidance and policy.

(2) Some specific issues are of immediate concern in how NPS is executing current programs. As an institution, NPS is severely over-executing FTE positions. This over-execution is primarily in the reimbursable programs. NPS has authority in the current budget for approximately 900 FTE positions, but

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approximately 1,350 employees are on its roles. This over-execution poses a significant risk if reimbursable business does not materialize as NPS will need to reduce staffing to meet payroll with available funds. Limitations on use of funding may restrict its ability to cover fully reimbursable labor with other available funds (indirect overhead collections or direct mission funds) as their current policy calls for. In discussions with the VPFA, she did not identify a plan or process to deal with significant reductions in the amount of available reimbursable funding and planning appears focused on growing additional reimbursable business. In addition, NPS allows establishment of "interim accounts" in support of reimbursable programs in advance of funding being provided by sponsors.<sup>4</sup> This is in direct conflict with FMR guidance (Volume 14, Chapter 2, 020202 E) which states: "General ADA violations occur when obligations are authorized or incurred in advance of funds being available." The funds being reserved to back the interim accounts are not correctly used to support the reimbursable work being accomplished on the project. NPS has a valid concern that they cannot afford to release staff when a sponsor is not able to provide funding documents timely, either as a result of a continuing resolution or for other reasons, and then try to rehire them once the funding is in hand. This issue will require review with ASN (FM&C) to determine a way ahead that satisfies statutory restrictions and specific circumstances of interim accounts should be reviewed to determine if ADA violations have occurred. The issue also highlights the difficulties created when a mission funded activity has a very high percentage of reimbursable work; more suited to a working capital funded activity.

## **RECOMMENDATIONS**

072-12 That NPS re-align the Sponsored Program Financial Analysts from Program Analysts (343 job field series) responsible to the Principal Investigators, Program Managers and RSPOs, to the Financial Analysts (501 job field series) that report to the Comptroller; this realignment will ensure that financial regulations are consistently adhered to through the different departments.

073-12 That NPS implement appropriate measures to ensure that it restricts contractor access to procurement-sensitive or contractor proprietary data within the KFS database.

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<sup>4</sup> Interim accounts are set up with DFAS for the payment of reimbursable labor prior to the reimbursable funding being received from customer activities.

074-12 That ASN (FM&C) determine a way ahead that satisfies statutory restrictions in the establishment of interim accounts in support of reimbursable programs in advance of funding being provided by sponsors.

4. Funding. NPS starts the fiscal year covering reimbursable liability by reserving direct funds to cover the liability until earnings catch up with expenditures. Early in each fiscal year, NPS reimbursable charges are put against a negative authorization via an "interim account." DFAS has agreed to this process. Current procedures related to the set up of an "interim account" for the payment of reimbursable labor prior to the reimbursable funding being received from customer activities were established prior to arrival of the current Comptroller. This is especially a concern in fiscal years that begin with Continuing Resolutions (CRs), and the fiscal year funding is delayed. This "Interim Account" process allows labor and travel charges to be incurred in support of reimbursable sponsored programs before the actual funding document is received from the sponsor. This process presents a number of concerns, including how to manage the interim account if funds are not issued by the sponsor during the fiscal year that the work is completed. The NPS current process, documented in a Sponsored Program Policy/Guidance Memo, states that in this instance, the department's recovered indirect funds will be used to cover the costs incurred on the interim JONs. If those funds are insufficient, then NPS mission funds will cover the costs. This process raises a concern that work may be initiated or completed for a reimbursable customer without funds in place. The NPS practice may create a low-level risk for a potential ADA violation should the amount of the direct funds be insufficient to cover the total incurred costs captured against the interim JONs. However, as the percentage of reimbursable funds increases in relation to mission funds, the likelihood of an ADA violation increases in the event reimbursable funds fail to materialize.

#### **RECOMMENDATION**

075-12 That ASN (FM&C) determine an acceptable level of reimbursable funding for this mission funded activity to prevent a possible ADA in the event that reimbursable funding is unavailable.

a. *Non-Appropriated Funds (NAF)*. NAF activities at Naval Support Activity Monterey (NSAM) appear to be operating in accordance with SECNAVINST 7043.5B, but a further inspection may be warranted.

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(1) The NAF N9 activities in Monterey are aligned under NSAM, but are involved with Quality of Life (QOL) and catering functions with NPS as well.

(2) The NSAM NAF QOL Director reports primarily to the civilian NSAM Executive Officer and the N9 of Navy Region Southwest. However, the NSAM NAF QOL Director does maintain a liaison with NPS primarily via the current NPS Administrative Officer. The NAF budget is approximately \$9.5M broken up among: Morale, Welfare and Recreation (MWR) at \$5M; Navy Gateway Inn and Suites at \$3M; Child and Youth Program (CYP) at \$1M; and, the Monterey Navy Flying Club at \$188K. QOL also received just under \$1M in appropriated funds, divided among MWR, CYP, and Fleet and Family Service Center (FFSC). FFSC receives the bulk of the appropriated funds at \$375K.

(3) NAF provides on-going catering services to NPS (Military Dining in/Dining out functions, etc.), and to the Foundation (Winter Ball). Given that the Foundation is a non-federal entity, it is unclear that the Foundation is eligible for NAF services. Such arrangements should be staffed via the NPS General Counsel prior to such events being performed by NAF personnel for the Foundation. NAF is providing a design plan for the entertainment areas of the President's residence and the reception desk area of the Navy Inn in Hermann Hall. All local NAF contracted construction work projects are contracted by Naval Facilities Engineering Command via Commander, Navy Region Southwest, in accordance with SECNAVINST 7043.5B.

b. *Gift Acceptance.* The acceptance of gifts of real and personal property, to include funds, by DON, for the benefit of NPS, is authorized by several statutes and guided by various agency regulations and instructions. The gift acceptance authority most often relied upon for acceptance of gifts to NPS is Title 10 U.S.C. 2601, which authorizes SECNAV to accept gifts for the benefit of, or in connection with, the establishment, operation, or maintenance, of a school, hospital, library, museum, cemetery, or other institution or organization under the jurisdiction of the Secretary. Gifts of money or proceeds accepted under this authority are deposited in the U.S. Treasury in the fund entitled "Navy General Gift Fund." In addition, NPS utilizes the authority of Title 31 U.S.C. 1353 to accept gifts of travel and related expenses. The statutory requirements for accepting gifts are implemented by SECNAV, CNO, and NPS instructions.

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(1) SECNAVINST 4001.2J establishes acceptance criteria for gifts accepted by SECNAV, the Under Secretary of the Navy, and personnel with delegated gift acceptance authority. Additionally, this instruction delegates authority to the CNO, the Vice Chief of Naval Operations (VCNO), and the Director of Navy Staff to accept gifts (other than real property), worth \$60K or less, offered to any institution or organization under the CNO command. Further, their authority to accept gifts of a value of \$12K or less may be delegated.

(2) OPNAVINST 4001.1F specifically delegates to the President authority to accept gifts (other than real property), worth \$12K or less, under Title 10 U.S.C. 2601 and Title 31 U.S.C. 1353. NPS has several instructions implementing the authorities of the various gift acceptance statutes.

(3) NAVPGSCOLINST 4001.1E was issued on 6 December 2006. It sets forth the policies, procedures and responsibilities governing the acceptance and administration of gifts to the NPS, as well as policies, procedures and responsibilities governing event sponsorship. As NAVPGSCOLINST 4001.1E predates SECNAVINST 4001.2J and OPNAVINST 4001.1F, it still references the gift acceptance authority of the President as \$10K or less (OPNAVINST 4001.1F raises the authority to \$12K). Additionally, NAVPGSCOLINST 4001.2B, issued on 5 August 2009, establishes policies and procedures for the administration of the President's Gift Fund. The President's Gift Fund is deposited in the U.S. Treasury and is composed of donations of funds that are available for expenditures for any purpose within the mission of the NPS and at the discretion of the President. The President's Gift Fund is funded through gifts offered by donors and accepted by DON. The Fund is administered by the Protocol Officer and the Account Managers who are delegated authorized use of the President's Gift Fund.

c. *Distribution of President's Gift Fund.* Gifts of funds from the Foundation to the President's Gift Fund were obtained for 2007 to 2012, year to date. The amounts are as follows: 2007 (\$90K); 2008 (\$61K); 2009 (\$57K); 2010 (\$66K); 2011 (\$73K); and 2012 (\$88,846). Appendix C provides a breakdown by account managers for 2007 to June 2012.

d. Gifts that were offered by the Foundation for the President's Gift Fund and properly accepted by NPS, per the applicable instructions, were deposited in the Navy General Gift Fund. Per NAVPGSCOLINST 4001.2B, gift funds from the President's Gift Funds could be expended by the Protocol Officer and Account

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Managers. The Protocol Officer prepared an annual budget of the President's Gift Fund for approval prior to the beginning of each calendar year with amounts authorized for each Account Manager. Concurrence of the SJA and NPS Comptroller was to be obtained if the intended use of the gift funds was in question. A central log was maintained in the Protocol office listing all purchases and grants made using gift funds received. Account Managers could only expend the amount specified in the annual budget unless additional authorization from the President was obtained. Additional authorization from the President must be requested in writing using the form contained in the instruction. The Protocol Officer conducted monthly reconciliation of the President's Gift Fund with the Comptroller. The Protocol Officer briefs the President on the status of the fund upon the completion of the monthly reconciliation.

e. However, the President's Gift Fund is only part of the gift equation at NPS. Based on the records, it appears that the Foundation sets up accounts retained at the Foundation from which NPS employees improperly accepted, and possibly solicited, gifts in violation of the applicable standards and processes contained in the gift instructions. On many occasions, NPS employees sought reimbursement of certain expenses from the Foundation, or the Foundation made payments directly to vendors on behalf of the NPS. Findings from a prior IG report provide an example of this practice:

(1) On 30 November 2009, NAVINSGEN issued an investigation report into allegations of misuse of appropriated funds. The report contained substantiated allegations that the b7c and staff members improperly accepted gifts on behalf of DON from the Foundation. Specifically, the b7c and staff members purchased alcoholic and non-alcoholic beverages that were served at official events with their own money and then submitted receipts to the Foundation for reimbursement.

(2) In a letter dated 27 May 2010, the President informed the NAVINSGEN that corrective action had been taken against the b7c for ethical violations to include accepting gifts on behalf of DON from the Foundation. Despite the findings of this prior investigation report, the President and his staff continued, at least until September 2011, to improperly accept gifts on behalf of DON from the Foundation.

f. Distinct from the earlier identified, properly made and accepted Foundation gift of \$50K to NPS "for expenses related to faculty recruitment and retention," on 1 February 2009, the

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Foundation established a second account to promote NPS recruitment and retention with a balance of \$50K. This account was not gifted to DON, but was retained by the Foundation. The President controlled this account and could authorize expenditures from the account. The President authorized expenditures from this account of over \$29.7K in 2009; \$15K in 2010; and \$3K in 2011, for reimbursements to NPS personnel or payments made by the Foundation on behalf of NPS personnel. The Foundation stated that the second recruitment and retention account was established because there were limitations on the use of gift funds properly accepted and deposited in the Navy General Gift Fund. Part of the impetus for the establishment of the second recruitment and retention account came from a desire by the NPS to have a Nobel Laureate to speak at the School in February 2009. The Nobel Laureate requested a \$10K honorarium; however, honoraria from NPS were limited to \$2K, as per the Financial Management Regulation, Volume 10, Chapter 12, paragraph 1208. In addition to the \$10K honorarium, the Foundation paid from the recruitment and retention account held by the Foundation \$851.42 for expenses related to the Nobel Laureate visit. The Foundation also funded from the recruitment and retention account held by the Foundation the travel expenses for spouses of applicants invited to the NPS for Dean or Professor interviews. In a brief review of the Foundation's records, NPS paid for the applicants' travel expenses, but seemingly solicited or appeared to solicit, given several statements made by Foundation representatives, the Foundation for the spouses' travel expenses. Foundation records show that the recruitment and retention account held by the Foundation also made payments for receptions, faculty candidate meals, workshops, refreshments, wine, working meals, hosting foreign delegations, course speakers' dinners and dinners with research sponsors.

g. In May 2009, pursuant to a request from the Executive Assistant for the Dean, School of International Graduate Studies, the Foundation made available \$2,500 from the Foundation recruitment and retention account. In January and December 2010, pursuant to additional requests, the Foundation made available \$2K and \$1,120 to the Dean, School of International Graduate Studies from the Foundation recruitment and retention account. All these requests were routed by the President, who authorized, but never properly accepted them as gifts to DON. These examples give the appearance of NPS staff members seeking funding or reimbursement from the Foundation, actions which may be viewed as solicitation, in violation of the SECNAV gift acceptance instruction. Additionally, the Foundation established several

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additional accounts held by the Foundation for the benefit of NPS personnel. The Foundation set up a President's Office Account for the benefit of the President. From that account the Foundation made payments to third parties on behalf of the President's office or provided items of value from the Foundation Peacock (gift) shop. In 2009, the Foundation paid \$132 for the President's office postage. In April 2010, the Foundation provided wine for a President's reception (\$480); in early September 2010, pursuant to a request from the President's Executive Assistant, the Foundation provided 240 holiday cards from the Peacock shop (the cards were properly accepted by the President as a gift to DON); in late September 2010, the Foundation provided an additional 32 holiday cards from the Peacock shop; and in November 2010, the Foundation provided wine for a President's reception (\$720) (the wine was properly accepted by the President as a gift to DON). In April 2011, the Foundation paid for a CNO reception (\$680 to MWR); in July 2011, the Foundation paid for a Senator Warner Dinner (\$699.72 to MWR); in July 2011, the Foundation reimbursed a School employee for a charge to her personal credit card for a Joint NPS/NWC Board of Advisors Meeting and Dinner (\$190.30); and in September 2011, the Foundation paid for a President's office event (\$914.79 to MWR). For the three MWR catered events, the Foundation was directly invoiced by MWR. In addition to the President's Office Account held by the Foundation, the Foundation made several payments on behalf of the President. In January 2010, the Foundation paid a merchant \$799.43 for furniture reupholstering; in July 2011, the Foundation paid Pier 1 Imports \$1,277 for patio furniture for the President's quarters. According to Foundation records, later in July 2011, the President made a donation to the Foundation of \$1,300. In August 2011, the Foundation paid a moving and storage company \$783.99 for furniture delivery to the President's quarters.

h. The Foundation records also show that it established a Provost's Account which was held by the Foundation. The account was originally established with a balance of \$5K in 2009. The Foundation deposited an additional \$5K in 2010 and \$5K in 2011. In 2009, the Foundation made five payments from the Provost Account for \$3,887.23. In 2010, the Foundation made payments totaling \$3,331.86 from the Provost's Account. In 2011, the Foundation made payments totaling \$3,823 from the Provost account. In 2012, the Foundation made one payment from the account for \$423.71. Funds paid on behalf of NPS and NPS personnel from accounts held at the Foundation were never properly accepted as gifts to DON, and give the appearance NPS personnel may be improperly soliciting gifts in violation of the gift instruction.

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i. A common theme that pervades the use of accounts held by the Foundation is what appears to be the intent by NPS personnel to circumvent any rules regarding the proper acceptance and use of gift funds. Regarding this practice, a common response from NPS personnel, especially if the event or function included alcohol, was that they wanted to avoid any restrictions imposed upon the use of government funds, to include gift funds properly accepted by DON. Another concern is the understanding of solicitation of a gift by NPS personnel; NPS personnel believe that asking the Foundation for funds or reimbursement of expenses is not a solicitation because the Foundation had offered to help in the past. The payment of invoices or reimbursement of expenses from the Foundation accounts that are not properly accepted as gifts appears to be an intentional attempt to evade the rules.

#### **RECOMMENDATIONS**

076-12 That SECNAV direct NPS to initiate in-depth ethics training for faculty, staff, and students under the direction of OGC and JAG; the training should also include training on the proper gift acceptance and the prohibitions regarding the solicitation of gifts.

077-12 That GC, in coordination with JAG and ASN (FM&C), examine the relationship between NPS and the Foundation; inter alia, and recommend to SECNAV clear guidelines for future interaction between NPS and the Foundation, to include a new MOU. The review should also include whether the Foundation remains on NPS and allowed special privileges, such as reserved parking, utilities, telecommunications, office space, etc.

078-12 That NPS update its gifts acceptance instruction to require an OGC/OJAG review.

5. Fundraising. A final area of concern is the involvement of NPS personnel, particularly the President and Provost, by their personal appearances at fundraising events in conjunction with the Foundation, specifically the Foundation Executive Director. In what amounts to "joint" appearances before potential contributors and corporate sponsors, the President and Provost make an overview speech of potential services NPS would offer members of the audience. Following the overview speech, the NPS representative(s) departs the room and the Foundation Executive Director then makes "fundraising" requests. NAVINSGEN considers this practice inappropriate and a possible violation of law.

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## **RECOMMENDATION**

079-12 That GC provide SECNAV a legal opinion concerning the appropriateness of current gift acceptance practices and what actions, if any, SECNAV should take.

### **III. PERSONNEL MANAGEMENT**

1. Overview. The Personnel Management team reviewed the management of personnel and civilian positions. Specifically, the team focused on administratively determined positions, academic chairs, and employee 9-month/12-month contracts.

a. *Administratively Determined (AD) Positions*. Review compliance with the laws and regulations for creating, hiring, funding, and administering AD positions. Verify the authority to create the executive-level leadership positions. Review contract positions that were converted to AD or General Schedule (GS) positions and then filled by the former contract employee.

b. *Academic Chairs*. Conduct a review of all Academic Chairs examining the authority to create the Chair, its funding, the incumbents' selection, and the match between the current incumbents' qualifications and the purpose for which the Chair was created. Review outreach program positions and positions where the incumbents' regular duty station is not at NPS, identifying its key purpose, funding, and accomplishments.

c. *Employee 9-month/12-month Contracts*. Review the legal authority for the 9-month/12-month employee contracts and the practice of "buying-out" teaching responsibilities. Identify internal controls to guard against standards of conduct violations in this area.

#### 2. Administratively Determined Positions

##### a. *Authorities*

(1) The following governing laws, regulations, and policies were reviewed to determine NPS' compliance with the requirements governing the establishment, hiring, funding, and administration of AD positions:

(a) Title 10 U.S.C. Chapter 605.

(b) 5 CFR 213 (Excepted Service).

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(c) 77 FR 19366 (March 30, 2012) Consolidated OPM Notice of Excepted Service Authorities Under Schedule A, B, & C

(d) DoDI 1402.06 (Civilian Faculty Positions in the Department of Defense (DoD) Post-Secondary Educational Institutions).

(e) SECNAVINST 12534.1C (Civilian Faculty Pay Schedule for the U.S. Naval Academy, the Naval War College, the Naval Postgraduate School, and the Marine Corps University).

(f) Assistant General Counsel Manpower and Reserve Affairs (AGC M&RA) Legal Opinion on the Policy Regarding Appointment, Promotion, Salary and Tenure of Office of the Civilian Members of the Naval Post Graduate School of 8 June 2006 ("The Pink Book").

(g) Memorandum Approving the Policy Regarding Appointment, Promotion, Salary and Tenure of Office of the Civilian Members of the Naval Post Graduate School, by ASN (M&RA), William A. Navas, Jr., of 24 June 2006.

(h) Naval Post Graduate School Faculty Handbook of June 2006.

(2) While Title 10 authorizes the SECNAV to determine the number of civilians to serve as senior professors, associate professors, assistant professors and instructors at the NPS and to prescribe the compensation of those persons, Title 5 authorizes the Office of Personnel Management (OPM) to determine whether the requirements and duties of these positions justify exception from the competitive service utilizing Schedule A<sup>5</sup> appointing authorities. OPM has determined that the requirements and duties of the positions of professor, instructor, teacher, and Director of Academic Planning at NPS warrant an exception from competitive service and, consistent

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<sup>5</sup> OPM provides excepted service hiring authorities to fill special jobs or to fill any job in unusual or special circumstances under "Schedules A, B, and C." These excepted service authorities enable agencies to hire when it is not feasible or not practical to use traditional competitive hiring procedures, and can streamline hiring. Agencies may use any excepted service authority under Schedule A or Schedule B when it applies to your situation. For example, you must use a Schedule A exception to hire attorneys because, by law, OPM cannot develop qualification standards or examinations for attorney jobs. You can use exceptions for other special jobs, including chaplain, law clerk trainee, medical doctor, dentist, certain interpreters, experts for consultation purposes, and some others.

<[http://www.opm.gov/Strategic\\_Management\\_of\\_Human\\_Capital/fhfrf/FLX05020.asp](http://www.opm.gov/Strategic_Management_of_Human_Capital/fhfrf/FLX05020.asp)>

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with the Code of Federal Regulations (5 CFR 213.103), has published a Federal Register notice authorizing DON to appoint individuals to these positions utilizing excepted service Schedule A appointment authorities. (See 77 FR 19366 of 30 March 2012)

(3) DoD has promulgated instructions to the Heads of all DoD Post Secondary Educational institutions that direct these institutions to recruit and retain high quality teacher-scholars and executive-level administrative faculty. The instruction, DoDI 1402.06 defines:

"3.1 Civilian Faculty Positions as those "whose primary duties involve teaching, lecturing, instructing, facilitating discussion in seminars, conducting scholarly research, facilitating discussions in seminars, conducting scholarly research and writing, designing or developing curricula and/or learning support systems, providing academic advice or consultation, management and governance of the academic enterprise or an educational program (e.g., Dean, Director, Department Chair or Head, President, Vice President, Provost, or the equivalent), and/or performing duties that are commonly understood to be duties appropriate for a member of the faculty of a fully accredited post-secondary academic institution in the United States."

3.3 Support Positions as those "whose primary function is non-academic in nature and that provide operational support for the DoD educational institution."

(4) The instruction links civilian faculty expertise to academic programs and experience needed to accomplish the institution's mission and provides that the titles and duties of civilian faculty must remain "peer comparable" to those of other Federal and non-Federal academic institutions. Specifically, DoDI 1402.06 provides:

"4.1 DoD civilian faculty members shall possess the credentials and expertise necessary to accomplish the institution's mission and to ensure a high standard of excellence is maintained in the Department's educational programs.

4.2 DoD civilian faculty positions . . . perform the functions [as set forth in the definition above].

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4.3 DoD civilian faculty do not include support positions . . . .

4.4 Title and duties of civilian faculty positions should be comparable to those of other Federal and non-Federal academic institutions in order for the Department to remain competitive."

(5) The instruction further provides at paragraph 5.1 that the secondary institutions "may tailor the use of appointment authority" by "limit[ing] appointments to positions whose duties are strictly teaching."

b. *Findings*

(1) The NPS use of excepted service appointing authorities is not tailored to the category of positions authorized by OPM. Specifically, NPS does not limit its use of excepted service appointment authorities allowable at the NPS to the four positions authorized by the OPM in the Federal Register: (1) professor, (2) instructor, (3) teacher, and (4) Director of Academic Planning. Instead, leadership and staff across the NPS take a very expansive view of what constitutes a "civilian faculty position" by extracting terminology found in the DoDI 1402.06 without proper consideration of the primary requirements and duties of these positions. Applying a very liberal interpretation of the DoDI 1402.06 and relying upon an approval of the NPS Pink Book by the Assistant Secretary of the Navy (Manpower and Reserve Affairs)<sup>6</sup>, NPS utilizes excepted service appointment authority to appoint individuals to positions whose primary duties are more in the nature of non-academic or operational support. This expansive interpretation of the term faculty has resulted in the extensive employment of a civilian labor force whose primary duties and responsibilities support the non-academic or operational needs of the institution. The failure of NPS to consider the primary requirements and duties of the positions by focusing more broadly on whether the positions support the overall academic enterprise has resulted in the inappropriate application of the excepted service appointing authorities authorized by OPM.

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<sup>6</sup> NPS sought and received approval of its policy regarding "Appointment, Promotion, Salary and Tenure of Office of the Civilian Members of the Faculty" from the Office of the Assistant Secretary of the Navy (Manpower & Reserve Affairs) in the summer of 2006. Subsequently, DoDI 1402.06 was issued. The policy documents are not inconsistent with one another, but the NPS' implementation of its policy must be consistent with the requirements of Title 5, the Code of Federal Regulations, the Federal Register on Excepted Service authorities, and the DoDI.

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(2) The team audited a sample of eight AD positions and interviewed both the employees and the selecting officials. From this review, we were able to identify positions that clearly met the DoDI 1402.06 definition of support positions (not appropriate for excepted service appointments) that the NPS classified as excepted service faculty positions. Specifically, the interviews revealed that the employees performed non-academic and/or administrative support duties. None of the individuals interviewed engaged in teaching or original research activities that are associated with the positions of Instructor, Assistant Professor, Associate Professor, or Professor or similar positions found on the AD Schedule (AD -1, AD-3, AD-5, and AD-7 respectively). Moreover, none met the definition of faculty as defined in DoDI 1402.06. Rather, all were support positions as defined in DoDI 1402.06. Therefore, we believe these positions should have been classified under the competitive service appointment authorities of Title 5 and compensated in accordance with the corresponding GS compensation authorities.<sup>7</sup> Our review indicates that 350-500 positions are improperly classified.

(3) In addition to the concerns noted regarding the application of excepted service appointing authorities, our review identified concerns with regard to the use of Federal contracts to overcome challenges associated with the Federal hiring process. Specifically, the team found that six of the eight excepted service employees we interviewed previously worked at the NPS as contractors. Upon the expiration of the contracts and/or task orders under which they worked, these individuals were non-competitively converted to Federal positions utilizing excepted service appointment authorities. While this practice appears prevalent at the NPS, one such example is worthy of mention: the excepted service appointment of the current VPFA.

(4) In 2009, NPS advertised and competed the VPFA position. The school advertised the position in educational journals and received multiple applications. A search committee evaluated the applications, ranked the applicants, and conducted interviews. In the end, the committee recommended the selection of the current VPFA. The President concurred with the recommended selection and the NPS extended her an offer of employment, which she declined due to the compensation package proffered (salary without relocation expenses). Looking for a

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<sup>7</sup> Alternatively, the NPS should have sought to have these positions authorized by OPM for exception from competitive service.

solution that would allow the School to hire this individual, NPS executed a task-order under an existing Indefinite Delivery/Indefinite Quantity (IDIQ) contract to procure the selectee's services in an advisory capacity to the President for a period of one year.<sup>8</sup> Pursuant to this arrangement, NPS paid the contractor an amount for advisory services that far exceeded the Federal salary offered to the selectee. Under this arrangement, the selectee achieved her desired compensation package and commenced work as a contractor for NPS. NPS circumvented the limitations of the civilian hiring process by utilizing a contract vehicle to do what it could not do under Federal hiring and compensation authorities.

(5) While it appears that the contracting office executed a legally unobjectionable contract, our review indicates that NPS mischaracterized the nature of the services to be provided under the task order thereby misleading the contracting office. The selectee performed work as a contractor that she likely would have performed had she accepted the offer of employment. Moreover, it appears from a review of the reports submitted under the contract, as well as other documents, that she attended meetings and held herself out as a NPS employee. These actions resulted in what could be characterized as a prohibited "personal services contract" in that the selectee actually began performing the duties of the VPFA while working as a contractor. At the conclusion of the 1-year task order, NPS appointed the selectee to the VPFA position using excepted service hiring authorities and without conducting a subsequent search to determine whether any additional qualified candidates may have been interested in the position. The NAVINSGEN Special Inquires Division has this information for further action.

(6) Prevalent throughout the process for hiring civilian personnel is the conspicuous exclusion of Human Resource (HR) Specialists with the requisite knowledge, skills, and abilities found in most Federal HR management programs. Throughout the NPS organization there is a complete lack of value placed on invoking the technical expertise of personnel specialists in the strategic planning, staffing, and position review process. Specifically, the HR Office (HRO) is not involved in the AD hiring program, rather it appears its primary function is to

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<sup>8</sup> During her interview, the VPFA acknowledged that she competed for the position and declined the offer of employment. She acknowledged that the declination related to the compensation package and admitted that she was referred by a senior NPS official to the contracting company, which subsequently received a task order for advisory services under which the selectee worked as a NPS contractor.

process the paperwork after a job offer is accepted. Rarely does anyone within the School seek the advice or assistance of the servicing HRO to shape the workforce or to manage the Federal hiring processes - processes which necessarily require HR technical acumen. Our review revealed that, in those instances where advice is sought but the opinion proffered is contrary to management's view or not directly in sync with management's preferred course of action, the advisor is viewed as a hindrance and a non-team player whose assistance is no longer welcome or sought. Personnel records maintenance is inadequate and not done under the direction and guidance of trained human resources staff, thereby preventing appropriate review of hiring actions to ensure compliance with merit principles and equal employment tenants. Moreover, inadequate records maintenance constitutes a potential risk should any of the personnel actions be challenged and/or subject to review by external agencies. In light of the number of NPS employees and the associated personnel workload, the School necessarily requires a dedicated HR staff and/or office appropriately placed within the NPS organizational structure to leverage the technical personnel management expertise requisite to ensuring full compliance with all personnel laws, rules, regulations, and policies. Moreover, senior leadership and top-level managers at the School need to be directed to lead by example by involving HR in its overall workforce planning/shaping and setting expectations that all personnel actions will be executed in direct coordination with the HR staff.

(7) In addition to the absence of HR technical expertise in the hiring process, it is apparent that management officials similarly limit the involvement of their civilian legal counsel on a host of matters. For example, management does not raise questions or concerns regarding the interpretation or application of civilian personnel laws, rules or regulations with their civilian counsel, nor do they actively seek advice on ethical issues such as employment related conflicts of interests. On occasion, advice is sought from the SJA, who is not trained in civilian personnel matters and who may not be able to identify the potential risks associated with certain proposed courses of action. Moreover, it is apparent across the organization that the involvement of legal counsel in most matters is discouraged or unwanted by officials at all levels across the organization because the legal advice may impact the current practices or processes within the command without regard to the legality of those practices. Most striking to the team was the fact that the Office of Counsel, which had been located

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in the administrative building with senior leadership of the School, has been relocated to a bungalow, removed from the campus leadership and administrative offices (President/Provost/Academic Affairs/Finance and Administration).<sup>9</sup>

(8) Finally, we identify a matter not included in the original tasking that we believe merits further inquiry; specifically, the payment of bonuses to non-tenure and tenure-track faculty. NPS leadership and management officials assert that such bonuses are necessary to retain highly qualified staff. We found that the amount of bonuses varies, ranging from a few thousand dollars up to \$10K, \$20K, or \$49K. Given the lack of internal oversight and questionable ethical judgment for awarding employees who have not exercised any indication that they may depart employment, a prudent decision must be made to direct NPS to provide annual justifications to support bonus awards.

## **RECOMMENDATIONS**

080-12 That ASN (M&RA) conduct a review of all excepted service AD appointments at the NPS.

081-12 That, if required by the review of recommendation 080-12, NPS develop a corrective action plan, subject to review and approval by ASN (M&RA), to address any improper appointments and to establish appropriate procedures for ensuring that the use of excepted service appointing authorities align with OPM authorizations. The corrective action plan should also address the need for additional excepted service appointing authorities and include a detailed plan to obtain these authorities.

082-12 That NPS, in coordination with and approval of ASN (M&RA), update the Policy Regarding Appointment, Promotion, Salary and Tenure of Office of the Civilian Members of the Naval Postgraduate School, of 8 June 2006 ("The Pink Book").

083-12 That NPS immediately implement a policy that HRO be involved in NPS strategic planning, staffing, and position review processes. This policy should require that no offer of employment be extended without the review and approval of the hiring action by a trained HR Specialist.

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<sup>9</sup> We note that the relocation of the Office of Counsel was done to accommodate the relocation of the Foundation, a non-Federal entity, into the administrative building of the School. This move highlights the value the School's leadership places on the role of the Foundation and the lack of support the School provides to the legal office and its staff.

084-12 That the President ensure that all NPS components proactively and routinely involve its OGC attorney(s) on any matter that necessarily involves the interpretation of relevant laws, rules, or regulations normally within the business expertise of OGC.

085-12 That ASN (M&RA) review the NPS recruitment, relocation, and retention bonus program to ensure proper administration of the program.

### 3. Academic Chairs and Outreach Program Positions

#### a. *Academic Chairs*

(1) There are currently 21 research chairs distributed among the four academic school Deans and the Dean of Research at NPS. External agencies in partnership with the NPS sponsor each chair. Although the chairs are under the supervision of the various Deans, oversight of the programs is not apparent. For example, during our initial meeting with the Deans to discuss the research chairs, the Deans were somewhat unclear as to which of the chairs fell within their particular area of responsibility.

(2) Memorandums of Understanding (MOU) or MOA between the sponsor and NPS govern the position and duties of the research chairs. These memoranda vary in detail and individually outline the process of selecting the chair, the required qualifications, the chair's duties, and the funding and/or support requirements provided by each of the parties (joint/individual funding support). Incumbents holding the chair positions appear to have appropriate experience to serve; albeit, we found some evidence that directed candidate selections occur rather than candidates competing in a structured selection process.

(3) The single exception to this model is the Secretary of Defense Systemic Strategy Chair. This particular position, sponsored by the Chairman of the Joint Chiefs of Staff, does not have an underlying MOU or MOA. Instead, there is a letter of appointment from the Secretary of Defense creating the chair and appointing the inaugural chair holder. This letter lacks the details found in the other memoranda regarding the selection process, duties, functions, and specific funding responsibilities. The current chair holder served three of his last four tours as the Strategic Assistant to the previous Chairman of the Joint Chiefs of Staff and proposed the idea for a chair after writing a

white paper that supported maintaining the NPS during the evaluations for realignment and closure in the 2005 Base Realignment and Closure.<sup>10</sup>

(4) Not having a signed agreement between NPS and DoD for the Systemic Strategy Chair creates difficulties for the institution and the current chair holder. In terms of the institution, NPS does not appear to have utilized the chair in any systematic way. In fact, the individual works without much NPS oversight. For example, the chair holder developed a curriculum, which does not appear to have been created with faculty input, is not currently offered at the School, and is not approved for teaching at the School. In essence, there is no evidence of the establishment of need for this curriculum, which is typically demonstrated as part of a program review process for the Western Association of Schools and Colleges accreditation. Absent establishment of the need for the curriculum, NPS would not be able to obtain the necessary Western Association of Schools and Colleges approval required to teach the curriculum and award degrees using this curriculum. With respect to the chair holder, the lack of an MOU forces him to cobble together funding for what he understands to be his duties while assigned to NPS, including funds for the purchase of research materials and for travel. On a case-by-case basis, he requests and secures funding for travel to make presentations and attend various activities. The chair accomplishes this by approaching the institution that he considers the appropriate stakeholder (NPS or Joint Staff), depending on the nature of the event, and requests for travel funding. There have been instances, however, where the chair holder covered the costs for travel out of his own pocket due to budgetary constraints or a lack of clarity as to the responsible funding authority. This is a violation of the DoD Financial Management Regulation, Volume 9, Chapter 5, article 505.

*b. Outreach Program Positions*

(1) The current Dean of Academic Affairs describes outreach programs as a collection of efforts that happen widely across the School, which have three broad purposes: (1) promote external awareness of the opportunities provided by the NPS, (2) promote and develop research sponsorship, and (3) promote and establish student sponsorship. For purposes of this inspection, we concentrated on positions held in external offices located in

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<sup>10</sup> The current chair stated that finding the correct successor was important, and he proposed that he should nominate the slate of individuals to be considered for the position.

Fleet concentration areas and programs targeting DON civilians and senior officers where the director's work location is other than the NPS main campus in Monterey.

(2) We interviewed directors of three outreach programs; one in the Washington Capital region, and two directors whose programs are home-based on the NPS campus and, although they do offer courses for resident students, they primarily offer courses to non-resident students (either through remote site programs or by bringing students to campus for a variety of short courses).

(3) The first outreach program examined, the National Capital Region Office (NCRO), was established to interface with other Federal agencies, to reach out to potential external sponsoring organizations by forming partnerships benefiting students and research activities, and to provide external publicity for NPS education and research opportunities. The NCRO Director has one administrative assistant on staff; however, there are approximately 77 individuals in the Washington, DC area working for several individuals across NPS via reimbursable funds. The NCRO, although not designated as such, functions as a liaison office for these individuals but does not have an authoritative role in supervising performance. Instead, these individuals report to the Dean. The NCRO Director's position is classified as an excepted service AD position. The NCRO office, including salaries, operates through reimbursable funds. The Director does not teach or perform research; his primary duty is promotion of NPS to external organizations and any other duties performed are his "best assumption" of organizational needs.

(4) The second program examined was the Center for the Study of Civil Military Relations (CCMR), which was formed under the terms of a MOU with Defense Security Cooperation Agency in order to pursue various aspects of civil-military relations. This program operates with reimbursable funds and does not draw any direct funds from NPS. While the program offers several (perhaps five or six per year) courses on the NPS campus, most of the program is delivered at a variety of off-campus locations. The curricula offered are based solely on the sponsor's requirements. For example, CCMR supports the Hawaii area where a considerable number of personnel work with the U.S. Pacific Command J7 staff and the U.S. Army Pacific G3. When asked about the educational content of the courses provided, the director acknowledged that they were not necessarily graduate-level courses in that perhaps 60% of the material covered would be better classified as training. There is also a group of faculty

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in Washington, DC that provides similar support to the Office of the Secretary of Defense. We also identified a faculty member home-based in Tampa, FL, who provides support for U.S. Central Command. However, we found that this faculty member spends most of his time (90 to 95%) traveling around the world.

(5) The CCMR director has four GS employees and various categories of faculty and staff hired using the non-tenure-track excepted service AD appointments.<sup>11</sup> He also makes use of a "large number of contractors" as needed. He maintains an open announcement on the NPS website and he gets referrals. He did note that "sometimes we compete, sometimes we interview more than one individual for a position," although our review suggests this is not the norm.

(6) The third program we examined was the Center for Executive Education. This program grew out of the now defunct Executive Leadership Office and in 2010 it became a fully funded organization through OPNAV N1. It started offering courses in PACOM and Washington, DC for members of the Navy intelligence community in order to develop management skills for key leaders. It offers skill preparation for flag-level officers in their next assignment and the courses include members of the Senior Executive Service drawn from the B-codes of the OPNAV staff. One of the main courses within the program is the Navy Senior Leader Course (NSLC), which is offered on the NPS campus six times a year and is aimed mostly at O-6 and GS15 level leaders. There are also a large number of other short courses on campus during the year. The Director for the Center is remotely located but comes to campus for all of the NSLC iterations as well as other courses and meetings totaling some 75 days of temporary additional duty per year. He runs the center remotely by working with the Deputy Director using phone and e-mail, and he has a signed telework agreement supporting this arrangement. The Director is responsible for arranging and evaluating 27 subject matter experts as speakers for each session of the NSLC. It does not appear that he is directly responsible for the content of the course, but he does ensure that the speakers meet the needs and expectations of the students. He leverages the NPS personnel by using 11 members of the NPS regular faculty as part of his core group of 27 experts. He funds these tenure-track faculty members by providing five days of reimbursable credit for each 2 to 4-hour seminar they deliver. This funding is applied towards the faculty member's intercessional requirement.

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<sup>11</sup> The Director referred to this hiring practice as "using the system of the School."

(7) The use of excepted service AD appointment authorities may be appropriate within the distance learning portion of the outreach programs, because there is some evidence that graduate-level classes are taught or graduate-level research is performed. However, it is clear that the Director positions do not satisfy the requirements for excepted service appointing authorities approved by OPM and explained within the DoDI 1402.06 based upon the requirements and duties of the positions. This is most evident by a statement of the Provost that "the outreach people are more the marketing arm of those groups [groups who are teaching or performing research for the NPS]."

#### **RECOMMENDATIONS**

086-12 ASN (M&RA) determine whether outreach initiatives align with the mission performance of the NPS; and if so, NPS should establish guidelines and/or business rules for outreach initiatives to include staffing requirements, position descriptions and oversight authority for outreach programs in remote locations. All staffing and classification decisions should be subject to review by civilian personnel experts.

087-12 That NPS establish a single oversight authority responsible for all research chairs and MOU development and execution between NPS and external sponsors.

088-12 That NPS develop and execute a MOU/MOA with the Office of the Joint Chiefs of Staff to address requirements and outline funding responsibilities.

089-12 That, consistent with the recommendations set forth in the AD section above, NPS review faculty positions in the outreach programs and the positions with permanent duty stations outside of NPS.

#### **4. Employee Contracts**

a. *Appointments.* At NPS, a new tenure-track appointee to the faculty will normally be given a 3-year appointment, followed by 1-year extensions until the sum of his/her accepted prior experience and the length of appointments at the NPS reaches seven years. Following the initial 3-year appointment, the 1-year extensions are based upon formal performance reviews that utilize the criteria outlined in the Pink Book. In the sixth year, tenure-track faculty apply for tenure and, if granted, begin career appointments in the seventh year.

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b. *Academic Calendar/Work Schedule.* The NPS academic session is nine months in duration similar to conventional academic appointments at civilian institutions where a faculty member is only required to serve for nine months, most commonly from September through May with summers off for research and other personal work. For most new NPS faculty, an award of Research Initiation Program (RIP) funding covers the first 12 months of their initial appointment for the first two years. From that point onward, the last year of their 3-year appointment they are expected to find reimbursable funds or extra-departmental direct funds to cover the three months of salary where they are not directly responsible for instructional or research duties at NPS. This practice also applies during the fourth, fifth and sixth year when the term appointments are broken into three separate 1-year appointments. Most faculty members find additional opportunities for teaching or research allowing them to cover their salary during this intercessional period. There are, however, faculty members who choose not to make an effort to secure funding for the intercessional term. This allows them to pursue research outside of that for which there is reimbursable funding<sup>12</sup> or simply to take time off. In these circumstances, faculty are charged leave or placed in a leave without pay status.

c. *Employment Contracts.* Although called a "contract," the agreement between the parties that outlines the conditions of the tenure-track appointment and the work schedule is actually a written offer of employment from the Provost that references the Pink Book policies followed by a written acceptance of the offer by the applicant on a form provided with the offer of employment.

d. *Buying out Teaching Requirements.* Tenure-track faculty also have the option of "buying out" a portion of their required teaching load by finding additional reimbursable funding that allows NPS to hire an adjunct faculty member to replace them in the classroom. Most faculty are only able to buy out a single course per year because of restrictions placed on them by their departments and the round of funding required to buy out more than a single course is based on a sliding scale, which makes buying out a second or more courses very difficult.

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<sup>12</sup> To the extent that such research would constitute "outside employment," there should be a required process for seeking an official ethics opinion on the propriety of engaging in such work.

e. *Findings*

(1) The propriety of all of these practices necessarily requires more in-depth review. Government-wide regulations promulgated by OPM provide that combined term appointment and reappointment may not exceed a 4-year limit. Thus, the practice of appointing tenure-track faculty to a three-year term appointment, followed by three separate one-year appointments appears to violate the 4-year limit on term appointments.<sup>13</sup>

(2) The 10-month academic session, followed by a 3-month intercessional period, appears to be seasonal employment. OPM regulations provide for seasonal appointments and recognize that such employment means annually recurring periods of work of less than 12 months each year where permanent employees are placed in a non-duty/non-pay status and recalled to duty in accordance with pre-established conditions of employment.<sup>14</sup> Seasonal employment is deemed appropriate where an agency must develop an experienced cadre of employees under career appointment to perform work which recurs predictably year-to-year and which lasts at least 6 months during a calendar year.<sup>15</sup> There can be no dispute that NPS requires a cadre of experienced faculty available for a minimum period of nine months on an annual and recurring basis. While we found this practice to align with OPM requirements, we question whether the offer and acceptance of employment process comports with the requirement to have an employment agreement executed between the agency and the seasonal employee prior to the employee's entering on duty. Specifically, OPM regulations provide that, at a minimum, the employment agreement must inform the employee: (1) that he/she is subject to periodic release and recall; (2) the minimum and maximum period they can expect to work; (3) the basis on which release and recall will occur; and (4) the benefits to which the employee will be entitled while in a non-pay status. Our review established that the four criteria above are not contained in one written instrument executed between the parties. As such, we believe work schedules and placement of faculty in a non-pay status<sup>16</sup> requires further examination.

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<sup>13</sup> See 5 CFR 316.302(b)(7).

<sup>14</sup> See 5 CFR 340.401 and 340.402.

<sup>15</sup> See 5 CFR 340.401 and 340.402.

<sup>16</sup> We would suggest that any additional review consider whether a faculty member without a detailed employment agreement could claim a constructive suspension when placed on leave without pay for a period in excess of 14 calendar days.

(3) The purpose of the 9-month/12-month model seems to be two fold. First, during the recruitment phase, an important item of discussion between the parties is the applicant's ability to pursue research interests. By teaching only a portion of the year, the faculty member has time to secure funding and pursue research opportunities that will enhance their standing in the academic community and the educational environment at NPS. Second, it allows NPS to keep costs down by only paying directly for the time the member is actually teaching in the classroom while the time spent on research is covered by reimbursable funds. NPS relies on reimbursable funds mainly from other DoD entities because there are insufficient direct appropriated funds to pay the salary for all NPS employees. NPS has an expectation that staff members will secure funds through sponsored projects in order to cover the payroll during the intersession period (44 workdays). Given the importance of garnering reimbursable funds, success or lack of success is an implied criterion for the faculty contract renewal, tenure, and promotion processes, which necessarily warrants further examination to determine the appropriate application of this implied factor in the performance evaluation, tenure, and promotion processes. Moreover, to the extent that the guidance provided in the Pink Book serves as notice to the faculty as to the conditions of their employment, these policies should be promulgated as NPS instructions/directives. Finally, the practice of allowing tenured faculty to "buy out" the responsibilities for which they were hired by bringing in adjunct non-tenured faculty to replace them in the classroom undermines the value of the tenure-track appointment system, because the tenure system is intended to develop and maintain a cadre of talented and experienced teaching professionals on permanent staff to the School and available to the student body throughout the academic session.

### **RECOMMENDATIONS**

090-12 That ASN (M&RA) conduct a review of the use of term appointments and seasonal employment at the NPS. If deficiencies are identified, ASN (M&RA) shall direct NPS to develop a corrective action plan, which shall be subject to ASN (M&RA) approval.

091-12 That NPS, in coordination with OCHR and approval by ASN (M&RA), review and update the policies contained in the Pink Book to comport with current personnel laws, rules, regulations, and policies and to promulgate these requirements in published local instructions/directives.

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092-12 That NPS reevaluate the practice of allowing tenure-track faculty to "buy out" teaching responsibilities and make recommendations to ASN (M&RA) on continuing this practice in its current or revised form for approval.

#### **IV. ACADEMIC INTEGRITY**

1. Overview. The Academic Integrity team reviewed the integrity of the thesis program and safeguards against plagiarism, to include a review of the current academic code of ethics. The broad category, "academic integrity," actually encompasses a number of aspects related to the overall quality of education: academic honor, adherence to established standards, institutional reputation - both internal and external - and equitability of internal processes for all students, staff, and faculty.

a. One way these sub-categories can be evaluated, thereby gaining an overall impression of the organization, is to review an institution's written policies and procedures and examine internal compliance with the same. In doing so, the examining body can evaluate two things. First, it can determine whether an institution's policies and procedures are appropriate and/or sufficient to carry out its assigned mission. By doing so, this "fresh set of eyes" can assist with the examined body's internal process improvement efforts. Second, an independent review of internal compliance permits examination of these policies and procedures without the inherent biases resident in those who work in an institution full-time. The results of this examination can also be used to enable an institution to improve itself.

b. NAVINSGEN observed a solid institutional culture of academic integrity at NPS. There is strong commitment to upholding the academic honor code and the levels of violations are low compared to most other institutions. However, NPS would benefit from a greater effort to standardize, centralize and actively promote a culture of academic integrity. The instructions in place governing the academic honor code are dated, incomplete, and in need of a revision. There were various levels of non-compliance noted regarding institutional review of research proposals and a centralized policy for the review of external publications does not exist. In addition, NPS would benefit from a formal thesis review program to ensure the academic integrity of the thesis process. There were, however, some issues raised with regards to the overall thesis process and the quality of some NPS approved theses. Observations and recommendations in a number of key areas follow below.

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## 2. Academic Honor Code

a. *NPS Policies and Procedures.* NPS has written instructions regarding its Academic Honor Code (NAVPGSCOLINST 5370.4 of 5 January 2006) and Procedures Regarding Disenrollment from the Naval Postgraduate School (NAVPGSCOLINST of 15 December 2006). The current instructions are dated and incomplete. Specifically, while the instruction on the Academic Honor Code adequately addresses what specific behaviors would constitute misconduct, and broadly speaks to the process in the event of an honor code violation, no specific and standardized institutional procedures are outlined. Additionally, the instruction directs that all students will be given a copy of the instruction. This has not been done in practice. Similarly, while the instruction on disenrollment covers cases of academic failure, misconduct, and physical/medical disqualification, it does not address academic honor violations. It should be noted that, at the time of inspection, both instructions were under review and draft copies were provided to the team. If adopted, these new instructions would largely address the concerns stated above. However, one apparent anomaly was noted in the proposed flow chart for processing future honor code violations. As drafted, the honor code violation adjudication process remains largely within the military chain-of-command. In the absence of a student appeal, the Dean of Students handles the case, making a disenrollment recommendation directly to the President. As a hybrid academic-military institution, it would appear that a two-track approach might be more appropriate. In this model, the academic chain-of-command, up to and including the VPAA, retains responsibility for institutional academic integrity and would make the final determination on a violation, particularly in the case of plagiarism. This body, through the Provost, would make the disenrollment recommendation to the President. The Dean of Students, as the Commanding Officer of the Student Element, would be responsible for the military aspects of a case.

### **RECOMMENDATION**

093-12 That NPS complete the proposed update to the two relevant instructions and provide the updated instructions. Review whether a two-track review process for suspected academic honor code violations is more appropriate given the hybrid nature of the School and provide a recommendation to ASN (M&RA) for approval.

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b. *Institutional Awareness of Program.* While inspecting this aspect of the program, two distinct trends were noted. In writing, NPS is very clear in its message about academic integrity and the Academic Honor Code. The passages contained in the relevant instruction (5 January 2006), NPS Academic Catalog of 8 March 2012, Student Handbook of 1 April 2012, and Distance Learning Handbook for Students of 21 May 2012, were unambiguous and consistent. However, when discussed with students and faculty, few could articulate details of the program, particularly the procedures in place in the event of an observed violation. While acknowledging that academic integrity was emphasized at NPS, and that the sanctions for violations were severe, most defaulted, understandably, to "notify the next person in my chain-of-command." Mixed signals were received as to whether the topic was adequately covered in either new student or new faculty orientation. Students did acknowledge that the Dean of Students routinely reinforced the theme at Secretary Guest Lectures. Students and faculty alike were almost unanimous in acknowledging that expected standards were routinely addressed in course syllabi, by faculty at the beginning of each quarter, and at key junctures throughout the term particularly at key assignments. No one interviewed believed the institution had a formal process for making the corporate body aware of a confirmed violation after it was adjudicated. For those who were aware of a past honor code violation, most knew it through rumor or the sudden absence of a student.

#### **RECOMMENDATION**

094-12 That NPS review its academic integrity program. The review must include both student and faculty orientation programs to ensure that the topic is covered in sufficient detail. In addition, the NPS review must consider: routine "Plan of the Day"-type reminders throughout the academic year; making the entire NPS community aware of the final adjudication (anonymized) of honor code violations when they occur to reinforce the active nature of the program and of the severe sanctions possible in the event of a violation; and having incoming students sign an academic honor code statement. It should be noted that some of these provisions are included in the draft revision to the Academic Honor Code instruction.

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c. *Institutional Compliance.* NPS enjoys a high level of compliance with regard to academic integrity. Students and faculty interviewed indicated that, in their opinion, academic integrity "was not an issue" at NPS. When pressed, most indicated that there were very few violations and indicated that maybe "one or two" a year occurred. A few also indicated peripheral knowledge of single incidents. One student stated that he had reported an observed violation, but did not know the final outcome. This rate of incidence is borne out by statistics provided by NPS. According to its records, six confirmed cases were recorded over the last three years. Long-serving faculty indicated no increasing or decreasing trend relative to the level of violations, although several indicated they believed that greater access to information via the Internet might pose more of a temptation. Leadership, faculty, and students strongly believed in the knowledge and professionalism of the front-line faculty, indicating that faculty members would catch violations if attempted. Both students and faculty acknowledged that some students needed remediation early in their time at NPS because: (1) they had difficulty adapting after experiencing the traditional "cut and paste" writing style in the operational forces; (2) they were unclear as to specific procedures regarding academic citation, or; (3) were initially less than proficient since long periods had elapsed since they were last in an academic environment. In an effort to validate this "assumed knowledge," the inspection team ran a statistically-significant sample of theses from the last several years through an industry leading software package (TurnItIn) to check for plagiarism. No incidents were detected. Of note, this software, which cross-checks a paper against a wide variety of sources to detect "commonality," has been available on campus since approximately 2006. Initially resident in one department, it was made available to the entire student body through the library starting in 2010-11 academic year. That said, the awareness of the availability of the software program is spotty at best among both students and faculty. Responses range from, "didn't know about it," to "my professors use it all the time," to "we were advised not to use it." While the Reference Librarians can immediately help a student if queried, finding the program on the Library's website is not intuitive. In the opinion of the team, it is a heavily underutilized resource. For example, in April 2012 only 16 students used the service.

## **RECOMMENDATION**

095-12 That NPS continue its strong emphasis on the importance of integrity in its academic programs. It should increase the awareness of the TurnItIn software throughout the campus by more explicitly addressing it in student/faculty orientation and by more prominently placing links to it on the Knox Library homepage. The faculty, or institution, might consider randomly checking assignments using the software to be better able to quantitatively validate program compliance. This suggestion is also contained in the draft instruction.

d. *Violations: Recent Cases.* During our inspection, one known violation of alleged plagiarism of a thesis, the result of a hotline complaint, was investigated. While the investigation is not yet complete, the evidence to-date would seem to indicate a clear violation of the academic honor code due to a high level of direct copying of an earlier thesis. During the inspection, a second potential plagiarism case was brought to the attention of the team. Upon further review, this case was not substantiated.

## **RECOMMENDATION**

096-12 That NPS consider making public, to the entire NPS community, substantiated cases of plagiarism, to include any sanctions and/or disciplinary action taken after adjudication as a confirmed violation, within the constraints of privacy statutes.

3. *Thesis Program.* Each student must complete either a thesis, some may be co-authored, or a capstone project as part of their master's degree requirements. These efforts are intended to serve as a culmination of the students' educational experience at NPS. Many are aligned to support specific projects of interest to the various program sponsors and routinely incorporate ongoing research being done at the institution.

a. *Thesis Research and Writing.* Most NPS students are enrolled in programs that are between 18 and 24 months in length. Initially heavily focused on foundational coursework, many students enrolled in hard science programs arrive at NPS needing remedial undergraduate courses typically begin working on their thesis between 6 and 12 months prior to their anticipated graduation. Students approach NPS faculty members, asking them to serve as their thesis advisor and co-advisor/second reader. In general, the advisor serves as the student's primary mentor

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during the thesis process. The workload split between the advisor and co-advisor appears to vary widely. Some reported a nearly 50-50 share of the mentoring, while others reported a 90-10 split. One co-advisor stated that, while he was expected to read the entire thesis, he was primarily there to cross-check the "hard science" in the thesis. Some faculty and students indicated that meetings between mentor and student were quite regular, such as "one hour per week one-on-one," to "[student x] was very independent and didn't stop by very often, and wasn't very receptive to suggestions." The number of students a given professor mentored at a given time varied widely from, "none," to "one or two," to "about fifteen," although admittedly not all projects might be coming due in that term. Several people interviewed indicated that, while some highly self-motivated students begin the actual thesis writing process relatively early in their programs, many wait as late as the beginning of their final quarter to begin writing in earnest. Reasons offered for this late start included student procrastination, faculty advisors being very busy, and ongoing classroom workload. Whatever the reason, the later a student begins, the greater the pressure associated with the "tyranny of the deadline." As the term comes to a close, the number of students actively seeking to obtain their "green card" (certificate of thesis completion/approval) creates a large "bow wave" that overstresses the review and approval process and which could, potentially, impact the quality of the final product. One senior faculty member reported that the thesis program is "heavily reviewed." Taken at face value this may be true, but given the sheer volume of comments about the crush at the end of each quarter it is difficult to avoid the impression that, as many related to the team in interviews and focus groups, NPS "is a pump not a filter." While the preceding sentence is not meant to imply that the vast majority of students are not producing quality work, it does acknowledge that the current flow pattern associated with the thesis process appears sub-optimal.

b. *Thesis Review and Approval Process.* The review and approval process for each student thesis proceeds along two simultaneous tracks. First, having earlier teamed up with NPS faculty, the student works with his/her advisor team to address faculty concerns, satisfactorily complete the written product, and ultimately to obtain the required signatures of the advisor, co-advisor/second reader, and department chair. At the same time, the student will have been working with the Thesis Services Office. Students will begin that process by submitting an incomplete thesis (this occurs 80-90% of the time), perhaps one to three chapters, to the office. Each thesis will then be

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assigned to one of four processors in this office who will shepherd it to completion - the issuance of the "green card." The processor is responsible for reviewing the format, ensuring adherence to an accepted citation style (i.e., Modern Language Association, Chicago, etc.), and will often do some basic editing. After each review, on average each student will go through three such cycles, the thesis is returned to the student for corrections. Additionally, assistance for international students, in the form of an outside editor/formatter, has been contracted out by NPS. U.S. students may choose to avail themselves of similar outside assistance, but must pay for those services themselves. Because of the hard requirement for students to proceed to follow-on duty assignments, and the sheer volume of theses being reviewed at the last minute, students may actually cross the stage at graduation without have their green card. NPS has instituted two practices that help address the end-of-quarter crunch. First, the week following graduation is known as "Overflow Week." During this time, faculty, students, and thesis processors work hard to complete the review/approval process for students who have just "graduated." It was reported that approximately 30 theses (~ 14%) were still being processed after the June 2012 graduation ceremony, although it must be acknowledged that some of these were the products of students from previous terms (see below). NPS also grants some students an extension to complete their thesis after they leave Monterey. Data provided indicated that in 2010 47 of 830 (5.7%) were granted an extension, while in 2011 the numbers were 54 of 785 (6.9%). Another source reported that for the June 2012 graduation, roughly 31 of 217 (14.3%) were leaving NPS on an extension. During one interview, it was stated that the completion rate for those granted an extension was historically quite low, with perhaps only 10% ultimately completing their thesis.

### **RECOMMENDATION**

097-12 That NPS review the entire thesis research and writing timeline to determine if a more optimal set of mandatory deadlines, perhaps staggered NPS-wide at the level of school/department, which would result in a more consistent level-of-effort for students, faculty advisors, and staff alike. Additionally, NPS should examine the distribution of thesis advising across the faculty to ensure that an equitable workload is maintained, thus ensuring sufficient time is available for all theses to be reviewed fully.

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c. *Thesis Quality*. Given the apparent late start on many/most student theses, the quarterly rush to get them approved before graduation, the sheer volume of theses in the review/approval process as NPS approaches each graduation, the impression of "pump not a filter" gained from interviews, and the simple fact that faculty also review final exams and term papers during this period, the question of thesis quality cannot be ignored. During focus groups and individual interviews the impressions gained by the inspection team on this topic were almost bi-modal. Some stated that the rigor of the thesis process varied by department. Some reported "very rigorous," while others firmly disagreed. Some were concerned that, due to the end-of-term rush, quality products were not being produced. This view was countered by others who believed that quality products were being produced *despite* the rushed schedule each year. The team was told that "all thesis are published through the Defense Technical Information Center (DTIC)." Later, it was acknowledged that some theses were really not good enough for sending to DTIC, and thus were not published. These students still received their degree. Some students expressed a concern that "the floor moves" and that, in their opinion, some students graduated that should not have graduated. Some believed that the department chair's reading of all theses provided the necessary quality control while others disagreed, citing the sheer volume of theses to be reviewed at the end of the term. Given the limited time the inspection team was at NPS, an extensive qualitative review to examine thesis quality, to try to resolve these divergent viewpoints, was not possible. That said, given the active case of plagiarism, the fact that some theses were not deemed "good enough" for DTIC, and the fact that one paper was brought to the attention of the IG team that appeared to be below graduate-level quality, there is sufficient evidence for NPS to conduct an internal review of the thesis process.

## **RECOMMENDATIONS**

098-12 That an independent panel examine the quality control process to ensure the academic integrity of theses. While apparently in place in some programs, the independent panel might consider whether a thesis defense element should be included in the process.

099-12 That NPS evaluate setting up a writing center to assist its student body to ensure the quality of thesis product and provide its recommendations to ASN (M&RA).

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4. Institutional Review of Research Proposals and External Publications. One line of inquiry on which the inspection team focused was whether there is an established set of procedures regarding institutional review of research proposals and/or external faculty publications such as books, articles, and conference papers.

a. A review of the NPS Intranet revealed an instruction regarding the NPS Export Control Program (NAVPGSCOLINST 5230.5 of 22 April 2011) and one regarding the Protection of Human Subjects (NAVPGSCOLINST 3900.4 of 12 August 2002). No instructions regarding security or information security reviews were readily apparent.

b. During interviews and focus groups, a mixed message was again received by the inspection team. While acknowledging that there is a research proposal website with the forms and instructions necessary to submit a proposal, some respondents indicated that "you really don't have to do all those forms." Most, however, agreed that the forms were required. Confirming this mixed message was an admission by a program director that some principal investigators follow established procedures, while others do not. Of note, an informal process has been proposed by the VP for Research (who is also the Safety Officer) to fax all research proposals to Safety, Security, Space, and Information Security for their review.

c. With regard to external publications, the processes again appear to vary by department. One Associate Dean stated that none of these types of work products were reviewed or approved in their departments. Others indicated that there was a degree of internal review and that, at times, sponsors wanted to approve/review work before publication. Given the apparent lack of an established, centralized set of procedures, it was difficult for the inspection team to gauge the degree of compliance/non-compliance with departmentally-mandated or NPS-required procedures.

#### **RECOMMENDATION**

100-12 That NPS, with assistance of Counsel, lead a team to conduct a systematic review of departmental procedures, establish a clear set of guidelines that include those suggested by the VP for Research (ideally differentiated to meet accepted best practices for the various academic disciplines) for the institution, and establish procedures to ensure compliance.

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## **V. RESOURCE MANAGEMENT**

1. Overview. The Resource Management team reviewed the NPS Legal and Inspector General (IG) organizations and functions, and the Managers' Internal Control and Command Evaluation programs.

### 2. Legal Organization and Function

a. NPS receives legal support from two Office of the General Counsel (OGC) GS-15 civilian attorneys who report to the Counsel, Office of Naval Research (ONR), and one Region Legal Service Office (RLSO) Southwest Staff Judge Advocate (SJA), currently an O-5. This staffing level is inadequate to deal with the myriad of complex legal matters that arise at NPS. Given the nature of the practice, the senior civilian attorney should report directly to the Principal Deputy General Counsel of the Navy; the other attorney, who concentrates in intellectual property law, could report to the Intellectual Property Counsel of the Navy (who also serves as the Deputy Counsel, ONR).

### **RECOMMENDATION**

101-12 That NPS add three or more OGC attorneys with recent Navy experience in one or more of the following areas: personnel law; contract law; fiscal law; ethics. NPS may also need to request RLSO Southwest increase the number of military attorneys assigned to support it or request establishment of a separate NPS SJA Office; SECNAVINST 5430.7Q, "Assignment of Responsibilities and Authorities In the Office of the Secretary of the Navy," describes the general division of functions between the Department's civilian and military law offices.

b. NPS leadership has consistently kept the legal staff out of short-term and long-term planning efforts, which may have contributed to some of the ethical lapses and improper procedures the inspection team noted. The recent relocation of the legal office from administrative offices in Hermann Hall, the building in which the President and Provost work, is evidence of leadership efforts to marginalize legal services. The attorneys now work out of a nearby "cottage" they share with the Chaplain and Chaplain's Assistant, and the NPS Foundation Gift Shop now occupies the vacated legal office space in Hermann Hall. The relocation reflects the NPS leadership and faculty attitude, expressed in emails, that the lawyers are an "impediment" to accomplishing the NPS mission. Likewise, forum

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shopping for favorable legal opinions appears to be a common practice; NPS faculty documents commenting on legal opinions suggest they aggressively challenge legal opinions they view as impediments to perceived success. This business attitude is counterproductive and strains the relationship between the civilian and military lawyers and the NPS leadership. The General Counsel of the Navy and the Judge Advocate General of the Navy should impress upon NPS leadership the need for sound legal advice to accomplish the NPS mission along with their personnel support for, and confidence in, the attorneys they have selected to provide legal advice to NPS.

### **RECOMMENDATION**

102-12 That the General Counsel of the Navy and the Judge Advocate General of the Navy personally visit NPS several times a year until they are satisfied NPS leaders are committed to the rule of law in the conduct of NPS operations, have incorporated NPS attorneys into their decision-making processes, and are following their attorneys' advice on legal issues.

3. Inspector General Organization and Function. The temporary management of the NPS IG office since February 2010 is unsatisfactory, ineffective and detrimental to the NPS mission.

a. The NPS IG office is currently staffed with a temporary IG, Navy Commander (O-5), and two GS12 civilians, both GS-0343-12s (Management Analysts), one managing the Command Evaluation, Audit and Inspection Liaison, Managers' Internal Control (MIC) and IG Hotline/Investigation Programs. (We note that this arrangement is contrary to OPNAVINST 5000.52B which requires that generally, the Command evaluator report directly to the commander but in no instance should be subordinate to a functional manager.) The other manages the IG Hotline Program and conducts all Hotline Investigations. The temporary IG volunteered in February 2010 to perform the duties of the IG as a collateral assignment, but functions primarily as a Military Faculty Professor. The temporary IG testified that he spends 30% of his time managing the IG office; however, based on IG staff interviews and our observations, we have determined that the amount of time spent on managing the IG office/functions is more accurately 15 or 20%. Additionally, the temporary IG lacks the required training and experience necessary to maintain supervision beyond the 3 to 6 months initially projected timeframe. We find this lack of management and oversight unacceptable and, effective immediately, NPS will no longer have a temporary IG. The personnel assigned to the NPS IG office

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will report directly to the NAVINSGEN Case Manager for all IG Hotline Program matters until a full time IG is assigned, on board, trained and functional.

b. In 2009, as part of the NPS Command Inspection, NAVINSGEN reported that although not required per SECNAVINST 5430.57G,<sup>17</sup> NPS had established the IG function and due to the "complexities of the NPS mission and the different funding sources associated with mission execution," should "take immediate action to establish this [IG] office in accordance with the provisions of SECNAV and OPNAV guidance."

c. Although efforts by NPS management were initiated in 2009 to fill the IG position, the candidates considered were internal military personnel, such as a former SJA and COS. Around October 2010, without an option for a reservist to replace the temporary IG and no billet designated for an active duty officer, consideration was expanded to include the IG assignment as a collateral duty to a civilian billet, specifically to that of the AD position held by the former COS. In August 2011, NAVINSGEN did not approve assigning the IG position as a collateral duty to the AD position due to the lack of specific NAVINSGEN experience, knowledge of applicable laws, rules, and regulations, and IG training of the former COS. In September 2011, efforts began to create a new civilian, GS-1801-15, IG position and write a Position Description (PD). These efforts continued for months until a properly classified PD was signed on 18 June 2012, under the guidance and assistance of NAVINSGEN. The position was advertised on 25 June 2012 and a selection was made in September 2012. The NPS IG will report in late October 2012, followed by orientation at NAVINSGEN in early November 2012.

d. With respect to the daily functions performed by the IG staff, these were reviewed thoroughly by NAVINSGEN during the Quality Assurance Review conducted in February 2012 and again during this command inspection. The Hotline Program is performing its functions in accordance with the applicable DoD and DON instructions and policies as well as the NPS Hotline Program instruction.

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<sup>17</sup> NAVINSGEN is currently updating this instruction and its enclosure (1) to include all Echelon II commands identified in the SNDL, of which NPS is one.

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## **RECOMMENDATIONS**

103-12 That, following the assignment of a permanent NPS IG, NPS expedite the vacancy announcement of a GS-1801-12, General Investigator in accordance with SECNAVINST 5340.57G.

104-12 That the NPS IG report directly to the President and that President meet with the IG on a recurring and as required basis (bi-weekly or monthly).

105-12 That the NPS IG office develop an inspection program of the NPS satellite offices in CONUS and OCONUS.

106-12 That the NPS IG and OGC Counsel attend essential meetings, such as Presidents Council (weekly), Academic Council (monthly), and Strategic Plan Council (bi-annually).

4. Managers' Internal Control (MIC). The NPS MIC program is ineffective due to little support from the NPS leadership.

a. As an Assessable Unit of CNO, NPS is required to adhere to the MIC program requirements of OPNAVINST 5200.25D. The requirements include appointing, in writing, a primary and alternate MIC program coordinator and having the President, as the NPS Assessable Unit Manager, complete the Navy Knowledge Online (NKO) MIC program training course. In addition, assessable unit managers must certify whether there is "reasonable assurance" that internal controls are in place and operating effectively. The certification must take one of the following forms:

(1) An unqualified Statement of Assurance (SOA) (reasonable assurance with no material weaknesses noted);

(2) A qualified SOA (reasonable assurance with exception of one or more material weakness(es) noted);

(3) Or a statement of no assurance (no reasonable assurance either because no assessments were conducted or material weaknesses are pervasive).

b. To implement OPNAVINST 5200.25D, NPS promulgated NAVPGSCOLINST 5200.1R of 16 December 2009. The NPS instruction requires active participation in the MIC program from senior managers to show subordinates that NPS "...desires to operate in the most cost-effective, risk conscious manner possible."

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Further, the instruction directs all employees with MIC program responsibilities to take the NKO MIC program training course and ensure that accountability for MIC program responsibilities is reflected in the performance appraisals of senior manager, managers, and those personnel with MIC program responsibilities.

c. The NPS MIC program is managed by the VPFA. The VPFA did not have MIC program responsibilities included in her performance objectives as prescribed in SECNAVINST 5200.35E and NAVPGSCOLINST 5200.1R. In addition, the VPFA had not taken the NKO MIC program training until the end of the MIC program cycle (14 May 2012); 11 days before the submission due date (25 May 2012) of the annual SOA.

d. The actual work to coordinate the MIC program was delegated to the Command Evaluator in the NPS IG office. This individual was responsible for all logistics related to the program. This included establishing the inventory of assessable units, the annual MIC program plan, and a MIC program training curriculum for NPS personnel assigned MIC program responsibility in NPS. The Command Evaluator was also responsible for collecting all the MIC program documentation prepared by NPS assessable unit managers and reviewing the information for completeness and reasonableness.

e. The NPS annual SOA was due to CNO on 25 May 2012. A draft SOA, dated 25 May 2012 was prepared for the President's signature. However, during a site visit in preparing for our on-site inspection, a NAVINSGEN representative recommended that the President not sign the draft statement until there was better assurance that internal controls throughout the command were assessed. Specifically, at that time numerous assessable units and sub-assessable units had not been evaluated or had been inadequately evaluated. Faced with the realization that NPS would have to submit a SOA that indicated "No Assurance," the NPS leadership decided to exert an all-out effort to turn in documentation for all assessable units.

f. Ultimately, the President signed a qualified SOA that indicated that he had reasonable assurance that the NPS system of internal controls met the objectives of the Overall FMFIA program's administrative and operational activities with the exception of a material weakness related to inconsistent compliance with MIC program requirements. The SOA included a Reportable Condition related to enterprise-wide copyright compliance.

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g. The NAVINSGEN 2009 NPS Command Inspection Report stated that the MIC program was satisfactory, but cited several deficiencies. Specifically, NAVINSGEN concluded that many assessable units met only the minimum NPS requirements for sub-elements—travel, purchasing, timekeeping, and property management. Further, that other potential risk areas, such as Hazardous Materials control and personally identifiable information did not have documented internal control procedures. Finally, that command support for the NPS IG in obtaining required information from cognizant departments was weak.

h. In September 2010, two personnel from OPNAV N1 visited NPS to review its MIC program process. They gave a 20-minute brief at the quarterly Strategic Planning Council meeting, attended by the President and several Deans and Chairs from various NPS schools. During the brief, the OPNAV personnel emphasized that MIC should be a continuous process rather than an annual process; that it involves all hands; the MIC program requires the support of all those top officials attending the briefing; should emphasize a culture of self-assessment rather than relying on external assessments (such as by GAO); that MIC program represents a different way of working, not more work; and that MIC program will lead to more efficient outcomes and processes. The President agreed with the brief points and pledged his support for the MIC program effort at NPS. During the visit, the OPNAV personnel provided training to 45 NPS staff with various MIC roles.

i. NPS established 14 assessable units and 55 sub-assessable units. We determined that 84.5% of the personnel assigned as assessable unit owners, sub-assessable unit owners, or primary and alternate MIC program points of contact took the required MIC program training. For these 55 sub-assessable units, there were 9 instances where the highest grade of either the primary or alternate MIC point of contact was GS8 or below.

j. For the 2011-2012 MIC cycle, the MIC program coordinator held a kickoff meeting in November 2011 and then various training sessions. We reviewed the sign-in sheets for the training sessions to determine the level of attendance by the assessable unit owners and their designated primary and alternate MIC points of contact. Taking a conservative approach to analyzing the data, we gave the sub-assessable unit credit for attending a training session if even one of the three primary or alternate personnel attended. Based on this rationale, we determined that for the 55 sub-assessable units, the following attendance statistics apply: Kickoff Meeting—31

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(53.4%); SharePoint Training-27 (46.6%); Visio Training-33 (56.9%); Operational Risk Management Assessment Training-34 (58.6%); and Internal Control System Test Training-22 (37.9%)

k. For the 55 sub-assessable units, only about 40% were completed as of 4 June 2012. After, NPS decided to expend an "all out" effort to complete its self-assessments on 6 June 2012, about another 20% were completed. Several of the sub-assessable units did not assess their functional areas. For example, two areas under the cognizance of the VPFA were not assessed and the responsible officials for MIC had each attended only one of the training sessions held by the NPS IG representative that ran the MIC program. Of significance is the fact that weaknesses should have been reported by each assessable unit manager. For Contracts, a material weakness should have been reported for the significant number of unauthorized commitments at NPS (1 for FY10, 5 for FY11, and 5 for FY12 to-date). These unauthorized commitments totaled \$412,089.13; and one individual is responsible for 2 of the 11 unauthorized commitments. Also, an ongoing audit by the NAVAUDSVC has identified numerous deficiencies related to the awarding of contracts. These deficiencies should have been included in a MIC assessment, had Contracts actually submitted a self-assessment report. The assessable unit manager for Hazardous Materials also did not provide a submission for the MIC program. In this case, weakness related to conflicting policy issues should have been reported.

l. Exacerbating the lack of support for the program is the fact that during the 2012 MIC reporting period (1 July 2011 to 30 June 2012), few command evaluations were started, none completed, and there were few audits of NPS by external audit organizations. Thus, with virtually no scrutiny of NPS programs/functions it was all the more crucial for assessable unit managers to have closely reviewed and tested the compliance and effectiveness of their internal controls and procedures. Regardless as to where the MIC program coordinator position resides outside of the NPS IG office, the IG staff member doing the actual MIC program work should be focused on Command Evaluation reviews and audit liaison and follow-up responsibilities.

m. Ultimately, based on the lack of documentation of self-assessments; the fact that many of the self-assessments were done in a 3-day rushed period; and that even after the push, only about 60% of the self-assessments were adequately completed, we conclude that NPS should have submitted a "no

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assurance" statement on 8 June 2012. In addition, we believe the lack of a sound MIC program is a major contributing factor to the significant deficiencies identified in this report.

## **RECOMMENDATIONS**

107-12 That NPS ensure that the annual SOA is an accurate assessment of whether internal controls are in place and operating effectively.

108-12 That NPS provide the VPFA with the proper authority and support to ensure enforcement of the requirements of the MIC program. NPS should consider transferring the actual coordination on work from the NPS IG staff member to a VPFA staff member.

109-12 That NPS consider establishing a requirement that personnel assigned MIC program duties are at least a GS9 or equivalent.

110-12 That NPS ensure that all personnel with MIC program responsibilities take the NKO MIC program training course; have its MIC program responsibilities included in performance objectives; and attend MIC program training sessions.

111-12 That NPS reorganize assessable units to functional alignments and have the functional assessable unit managers assess across NPS. Examples should include establishing assessable units for Comptroller, Contracts, and hiring functions. NPS should consider using a more user friendly template, such as the one developed by SPAWAR.

5. Command Evaluation. The NPS Command Evaluation program is inadequate, because few command evaluations are conducted and completed. Similar to our conclusion about the MIC program, the lack of conducting command evaluations is a contributing factor to the numerous significant deficiencies cited in this report.

a. Overall, the NAVINSGEN 2009 NPS Command Inspection Report concluded that the NPS Command Evaluation program was in compliance with guidance. The report highlighted the fact that the FY10 Command Evaluation plan included NPS high risk areas such as timekeeping, property management, and the performance of Contracting Officer Representatives and Sponsored Programs Financial Analysts. However, the report recommended that the Command Evaluation function report directly to the President. Presently, the NPS Command Evaluator reports to the temporary NPS

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IG when performing command evaluation and audit liaison functions. The individual, however, reports to the VPFA for the MIC program.

b. OPNAVINST 5000.52B provides guidance related to Command Evaluation programs. The instruction states that Command Evaluator is one of many tools used to evaluate the effectiveness of internal controls, ensure the integrity of command programs, and identify potential material weaknesses. The instruction further states that significant issues identified by Command Evaluator should be considered for submission into a command's annual MIC Certification Statement.

c. The Command Evaluation and MIC programs work together to ensure that misuse of resources is prevented and detected. The Command Evaluation program assists in determining if resources are being efficiently and effectively used, and programs and operations are being discharged with integrity and in compliance with applicable laws and regulations.

d. For FY11, several Command Evaluation plans were drafted, but no plan was officially approved. The latest revision included reviews of such areas as travel and the travel card; research in the International Program Office; property management, and timekeeping. To-date, no plan has been drafted for FY12. Since the beginning of CY10, five command evaluations were started. Of those, extensive review work was done on three of the evaluations - invitational travel, time and attendance, and financial controls at the international program - but only one, the financial controls at the international program office, was ultimately completed.

e. Since the start of CY10, there have only been three external audits conducted at NPS. Command evaluations are a proactive means to assess a command's compliance with regulations and to seek better ways to improve the economy, effectiveness, and efficiency of operations.

f. In the evaluation of the MIC program we recommended that the responsibility for conducting the annual MIC program be transferred from the Command Evaluator to someone in the VPFA office, outside the NPS IG office. This would enable the Command Evaluator to focus efforts on conducting and completing command evaluations of important areas/functions.

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## **RECOMMENDATIONS**

112-12 That NPS have all aspects of the Command Evaluation, including the rating of the Command Evaluator performing the function, reside with the President.

113-12 That NPS prepare an annual plan for Command Evaluation that concentrates primarily on high risk areas and areas of concern to NPS top managers.

114-12 That NPS conduct Command Evaluation reviews listed in the annual plan or high priority areas that surface during the year.

115-12 That NPS complete Command Evaluation reviews to include coordinating the findings with management and issuing final reports signed out by the President.

## **VI. COMPOSITION AND RECRUITING OF THE STUDENT BODY**

1. Overview. NPS delivers graduate master and doctoral degree programs, graduate level certificate programs, and professional development courses. Title 10 U.S.C. 7041 and 7047 provide the statutory authority for NPS to educate Naval officers and grant degrees, respectively. ASN (FM&C) letter Ser ASN (FM&C)/U170 of 23 September 2010, provides opinions on the statutory authorities of NPS to educate each category of students by education program with the exception of hiring and subsequent education of research assistants. OPNAVINST 5450.210D defines the mission, functions, and tasks of NPS and delineates applicable governing regulations. Graduate degree programs include 56 resident degree programs and 18 distance learning programs. NPS offers 38 certificate programs with various delivery formats including resident, distance learning, or combination of resident and distance learning (hybrid delivery). NPS provides various professional development courses that range in duration from a few days to weeks with resident, distance learning, or hybrid delivery including mobile education teams domestically, afloat and internationally. Professional development courses, referred to as "short courses," are training courses that do not qualify for academic credit.

2. Student Throughput. NPS' collective programs educate and train uniformed personnel from all U.S. military services, including the U.S. Coast Guard, DoD civilians and contractors, civil and federal agency civilians, and international military students. Graduate education participation is predominately

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junior officers from the Navy and Marine Corps; however, NPS also educates senior officers and enlisted personnel (Active Duty and Full-Time Support and Selected Reservists). NPS' published Fact Book 2012, found on the NPS website, provides summary statistics for the 2012 academic year student body.

a. The ASN (FM&C) letter Ser ASN (FM&C)/U170 of 23 September 2010, sets policy for tuition funding. NPS cannot accept tuition from individuals and all students must be sponsored through funded education or training programs. Specifically, Navy and Marine Corps military members may not be charged tuition; their education is funded through NPS' mission funding which includes Congressional supplemental funding. All other student tuition is only accepted on a reimbursable basis where direct and incremental cost of overhead is charged. NPS engages in active pursuit (through marketing) of sponsors by the administration, outreach offices, and faculty, particularly in research opportunity endeavors including outreach and academic institution partnerships. Academic chairs may directly engage potential students and education sponsors through personal initiative, but this is not a coordinated effort by NPS to recruit students. Interaction with sponsors and potential sponsors is the primary vehicle for marketing NPS and may occur by faculty-level discussions regarding research proposals, course development and curricular reviews, and engagements by executive and program directors of engagement and outreach offices.

b. Opportunity to increase resident student throughput from U.S. military services is limited as this depends on service funding levels for graduate education. Sponsoring organizations have decreased participation in professional development courses since 2008 (from 74,333 in FY08 to 47,415 in FY10 and trending lower). This correlates with sponsors' decreased training and education budgets. Professional development courses may provide enrollment growth as sponsors are able to increase training and education budgets.

c. Navy and Marine Corps student throughput is requirement driven and based upon career field specialties. NPS is mission funded to pay Navy and Marine Corps tuition. Air Force and Army student throughput is dependent upon service members selecting NPS as their preferred institution for graduate education with tuition paid by their services on a reimbursable basis. Therefore, NPS' potential for increasing student throughput centers on the following growth areas:

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(1) Providing shorter curricula to increase opportunities per year;

(2) Increasing distance learning and certificate course offerings;

(3) Increasing international, civilian, and contractor student enrollment;

(4) Increasing professional development short course offerings.

(5) NPS initiatives to increase enrollment, including:

(a) Decreasing resident graduate education program lengths for Navy Unrestricted Line (URL) officers. VCNO directed NPS establish pilot programs for URL officers with shorter durations at the April 2012 Advanced Education Review Board. The intent is to fit URL education to the time afforded by community career paths, especially for the Submarine Warfare and Aviation communities.

(b) Expanding distance learning and certificate program offerings for U.S. military, international military and civilians, Science and Technology civilians, and Department of Homeland Security civilians. NPS' distance learning participation increased 49% over the 2007-2011 timeframe, mainly through increased DON military and civilian enrollment.

(c) Pursuing increased civilian and international enrollments through global education partnerships.

3. Organizational Structure Supporting Engagement and Outreach. Graduate education programs at NPS reside within four schools: Graduate School of Engineering and Applied Sciences (GSEAS), Graduate School of Operational and Information Sciences (GSOIS), School of International Graduate Studies (SIGS), and Graduate School of Business and Public Policy (GSBPP). NPS structured its graduate schools and administration based on recommendations in Organizational Structure Analysis, Naval Postgraduate School by LMI Government Consulting (3/2008). Each school offers resident, distance learning, and professional development courses. NPS also provides executive professional development courses through its Center for Executive Education. Each graduate school aligns to multiple research centers consisting of faculty areas of expertise and graduate education programs. Additionally, there are four major research institutes.

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a. The NPS administration consists of civilian and military positions headed by the President and Provost. At the directorate level, each graduate school Dean reports to the Provost. Other directorate positions with engagement and outreach responsibilities include: Vice Provost for Academic Affairs (VPAA); Vice President for Information Resources and Chief Information Officer; Vice Provost for Special Initiatives; Director, U.S. Partnership for Peace (PFP) Program Office; Director, International Graduate Programs Office; and Director, Center for Executive Education. Military service representatives, military faculty, and civilian faculty also directly and indirectly perform outreach and engagement.

b. The President and Provost serve as ambassadors for NPS education programs and represent NPS programs to DON leadership, primarily at the Advanced Education Review Board chaired by VCNO. Recent President and Provost outreach and engagement efforts focused on developing the international community to develop partnerships supporting NPS' PFP Program.

c. The VPAA facilitates outreach and engagement efforts by coordinating graduate school oversight and new program development. VPAA coordinates development and academic approval of new education programs through the Academic Review process and engages with sponsors during this development period and upon sponsor requests to make curricular changes or disestablish curricula. VPAA also schedules the biennial curricular reviews with education sponsors. Curricular reviews occur over a period of months and culminate with sponsor site visits to NPS for formal briefs with the President. New education program proposals receive final sponsor endorsement during the curricular review process. For Navy and Marine Corps programs, OPNAV N15 reviews and approves program proposals under sponsor and NPS endorsement and programs mission funding resources through the Program Objective Memorandum (POM) process with OPNAV N1 serving as the single Resource Sponsor. For all other program proposals, agency sponsors approve the proposal, agree to source students for each course offering, and provide tuition funding on a reimbursable basis. Programs are disestablished at sponsor request or if student throughput drops below a threshold that NPS can no longer support the program costs due to lack of reimbursable funding. The VPAA organization structure includes the Center for Educational Design, Development and Distribution (CED3). CED3 provides delivery support for distance learning programs; VPAA seeks to provide a more centralized approach to distance learning development and delivery as these programs are the fastest area of growth for increased student enrollment.

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d. The NPS Office of Institutional Advancement seeks to raise the profile of NPS within the DON and DoD by sponsoring faculty conference attendance to engage potential sponsors, communicating with academic and accreditation organizations regarding NPS academic programs and research, soliciting strategic communications and feedback from alumni via surveys and professional conference attendance within DoD, and publishing the quarterly magazine and monthly newsletter. NPS' Institutional Advisory Committee approves conference requests based upon NPS' strategy and advice from senior officials and faculty. Institutional Advancement activities are mission funded and this office reports to the Vice President for Information Resources and Chief Information Officer. Institutional Advancement received 20 requests for conference attendance in FY12 and approved 14, mostly to Navy officer community events.

e. NPS has always depended on faculty entrepreneurial research and engagement efforts to sustain programs and growth (partially in response to junior faculty partial-year pay structures). Vice Provost for Special Initiatives (VPSI) is a new position held by Academic Deans on a rotational basis, reporting directly to the provost, to coordinate all NPS outreach and engagement efforts. NPS began transition to the VPSI framework in early 2012 to provide a single point of contact for all sponsors seeking NPS partnerships for research or education needs. This framework helps to centralize oversight of NPS new sponsor development efforts similar to the VPAA role for distance learning programs. The provost created this position in response to NPS' growth and need to ensure full synergy among the various faculty specialty areas. NPS' international engagement effort led by the PFP Program office is now aligned under the VPSI organizational structure.

f. In 2004, the Department of State designated NPS as a PFP Education and Training Center. NPS' role within PFP is to partner with NATO communities to provide graduate education and research in the area of conflict prevention. NPS partners with 24 active worldwide education and training institutes. According to interviews and supporting documentation, all NPS PFP programs are paid through reimbursable funding via State Department's International Military Education and Training (IMET) Program and Foreign Military Financing (FMF) account. However, initial program office funding was supported by congressional funding earmarked to establish the PFP program at NPS. NPS' PFP Program office presently has staff dedicated to marketing and in-country

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support teams at U.S. European, Central, and Southern Commands. The proposed VPSI organizational structure, which will encapsulate PFP Program Office, will subsume the existing PFP support staff and seeks to add liaison and project managers at each Combatant Command (COCOM). The proposed VPSI organizational structure will also fold the National Capital Region (NCR) distance support office and personnel.

g. NPS has three distance support offices: Norfolk, VA, San Diego, CA, and Washington, DC. The Norfolk and San Diego offices primarily support distance learning programs and associated distributed faculty serving in Fleet concentration areas. The NCR office has little distance learning support functions and primarily serves to coordinate NPS' engagement with National Defense University, foreign embassies, and agency sponsors targeting research. Outreach and engagement at the Fleet concentration areas involves outreach office staff conducting site visits to commands to advertise NPS programs. The NCR Outreach Office focuses on building partnerships with academia, agencies, and international communities. A recent NPS press release noted the NCR's role is to "broaden NPS research opportunities with sponsors located in the capital region, in addition to building more awareness with potential students from the U.S. and abroad for participation in NPS' educational programs."

h. The International Graduate Programs Office (IGPO) provides direct support for outreach and engagement with potential international students. The IGPO participates in COCOM hosted Security Cooperation Education and Training Center events from March through June each year to advertise NPS programs to U.S. embassy training managers for their host nation. Training managers allot quotas to participating education institutions based on the needs of the host countries and alignment to U.S. strategic objectives. IGPO accepts quotas awarded to NPS and facilitates the screening and admission of international students. IGPO does not market NPS through site visits or by name recruiting. IGPO occasionally gets cold calls from interested international students, but these are redirected to the appropriate channels.

i. The Center for Executive Education (CEE) provides short courses to Flag officers, Senior Executives Service, senior civilian personnel, and Type Commanders selected high-potential senior officers. CEE outreach and engagement includes announcement via annual notification e-mails to all Flag officers and SES personnel, "Personal For (P4)" messages by

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VCNO, presentation briefs upon request, and contact with program offices such as Flag Matter's Executive Development office and Naval Education and Training Assistance Field Activity.

4. Student Identification and Admission Process. The Admissions office and the Office of the Registrar review all student applications for eligibility and academic qualification. Students are conditionally accepted pending tuition processing for reimbursable students.

a. *Department of the Navy (DON).* DON provides mission funding to NPS for military personnel tuition. DON programs mission funding through the POM process with Office of the Chief of Naval Operations (OPNAV) N1 as the Resource Sponsor. Programmed graduate education programs have student billets within the Individuals Account (IA) to fund students' salary and benefits. The number of billets within the student IA determines the number of graduate education opportunities for resident degree programs. OPNAV N15 generates an annual quota plan based upon the number of available student IA billets for a given fiscal year. Navy Personnel Command (NPC) assigns officers to NPS resident degree programs based on the annual quota plan. Some programs require board selection (e.g., doctoral degree programs).

(1) DON also provides mission funding for graduate education at Civilian Institutions (CIVINS) administered through the NPS' CIVINS Program Office. DON assigns military personnel to CIVINS similarly to the NPS assignment process. Navy graduate education is governed by OPNAVINST 1520.23B, currently under revision. Distributed learning and certificate programs require applying for quotas to NPS distance learning program managers with command endorsement. NAVADMIN announcements detail application procedures for the Executive Master of Business Administration (EMBA) Program. Other distance learning programs require sponsor nomination to the program. Reserve Component members' certificate tuition is paid on a reimbursable basis.

(2) Professional development courses also require sponsor nomination with tuition paid on a reimbursable basis. Flag Matters serves as the sponsor for Executive Education courses for Flag officers with tuition paid on a reimbursable basis. DON civilians typically participate in distance learning, certificate, and professional development programs paid for by their organization. Commands pay civilian tuition on a reimbursable basis with the exception of the EMBA Program which has programmed funding for 50 annual opportunities administered by ASN (FMB). Participation requires sponsor nomination and

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successful NPS admission processing for enrollment. All DoD civilians and contractors have similar assignment and enrollment procedures, requiring sponsor funded tuition paid on a reimbursable basis.

b. *United States Marine Corps (USMC)*. DON pays USMC military personnel tuition through NPS mission funding. USMC officers attend NPS through the Special Education Program or International Affairs Officer Program. NPS' Academic Catalog, found on the NPS website, details admission processes for all student categories and states that "The Marine Corps holds selection boards for both programs that are announced annually by a MARADMIN message." However, USMC now ranks second lieutenants for graduate education potential within their professional fields based upon their undergraduate transcripts and performance evaluations. Promotion to major requires graduate education, and career field managers offer graduate education assignment to officers without graduate degrees based upon their qualifications and staffing needs. USMC plans to increase NPS assignments from about 75 to 130 annually. According to the USMC service representative at NPS, NPS does not actively recruit individual officers; USMC markets NPS through career progression counseling and word of mouth by alumni. NPS markets distance learning and civilian-focused education programs through engagements with sponsors of education programs and research.

c. *United States Army*. Army funds graduate education for officers through its Advanced Civil Schooling (ACS) Office. Army has few "coded billets" requiring advanced education; however, promotion to field grade rank requires master's degree education. Army officers may use education benefits and obtain a degree on their own or apply for an ACS quota. If the officer receives a quota, they may choose from a limited number of approved schools that offer degrees within their career field. About 500 Army officers receive funded advanced education at 141 universities (about 20% choose NPS programs). Specific Army cohorts are educated at NPS: students selected for faculty at West Point, a few officers identified for specific staff duties, and special operation forces (50 annually). Once officers receive a quota to NPS, they enroll through the regular admissions process with funding accepted on a reimbursable basis. The Secretary of the Army expressed interest in developing a partnership with NPS and is looking at potential to direct assignments to NPS in the future. A second potential for Army student enrollment is the Graduate School Option initiative. Newly commissioned officers will have options regarding obligated service length coupled with guaranteed

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funded education. This program will grow to 600 graduate education opportunities per year once established. NPS Army staff representatives are engaged with their service to advertise NPS programs.

d. *United States Air Force (USAF)*. Similar to U.S. Army, USAF requires a master's degree to be complete for promotion to field grade rank. USAF officer may pursue graduate education on their own using education benefits. Air Force Institute of Technology (AFIT) provides funded graduate education opportunity for USAF graduate education, but it does not offer all degree programs. Therefore, some USAF officers are funded to attend NPS via AFIT in fields not offered at AFIT. NPS and AFIT have a memorandum of agreement outlining their relationship. USAF officers enroll through the regular admissions process with funding accepted on a reimbursable basis.

e. *International Military*. DoD administers the processing of international education and training programs through the U.S. Joint Security Cooperation Training Program. Each military department has an International Program Office; and field activities manage all international education and training activities (NETSAFA for Navy). Each U.S. Embassy has training managers that serve as the "in-country" point of contact for training and education within DoD and interface with host nation requests for quotas to U.S. institutions (there are 6,000-8,000 international students in U.S. education institutions at any given time). Each institution has an International Military Student Officer that administers international student programs. Once embassy training managers identify an education requirement for NPS, they notify the IGPO at NPS to facilitate admission screening and enrollment. Funding is provided by the following sources on a reimbursable basis: Foreign Military Sales for training and education (65%), International Military Education and Training Program (25%), Combating Terrorism Fellowship Program (10%), and Foreign Military Financing (5%).

f. *Civilian and Defense Contractors*. U.S. and international defense civilians and contractors are sponsored by their agencies or employers. Agencies or employers nominate and fund students on a reimbursable basis. Students apply for NPS programs through the admissions process for screening and enrollment.

g. *Scholarships*. NPS accepts students from government sponsored Cyber Corps and SMART scholarship programs. NPS considers its Part-Time Work Study Research Assistants Program a

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scholarship program, although this program requires employment prior to acceptance. NPS enrolls qualified students through the admissions process with tuition paid by the scholarship program offices on a reimbursable basis.

h. *NPS Employees.* NPS full-time employees may take education courses for credit on a space-available basis as an employment benefit for professional development. There is no tuition charged, and the program has restrictions on the number of courses that can be taken per quarter.

## 5. Student Body Composition

a. Appendix D provides an overview of the *Graduate Education Programs, Professional Development Programs, and the 2011 Student Overview*.

b. Statute and regulations dictate the types of students that NPS may educate and how tuition may be collected; however, NPS may actively seek to field (recruit) a student body as long as it operates within its authorities and adheres to its authorized mission, functions, and tasks. This inspection found that the majority of NPS' composition and recruiting of the student body appear to be within NPS' authority and mission to execute. Other sections of this report address the inspection's findings regarding mission and fiscal management specifically. The following recruitment and composition of the student body findings are areas where NPS' authorities and/or mission are not clearly evident and may merit further inquiry.

(1) *Part-Time Work Study Research Assistant Programs.* NPS actively recruits students for the Research Assistant Part-Time Study Program in the traditional sense, albeit arguably for hiring purposes. NPS hires research assistants for assignment to faculty Principal Investigators conducting reimbursable research. The Part-Time Study Program allows research assistants, after a minimum employment period, to apply for part-time work while pursuing a graduate degree with tuition paid with reimbursable funds. Program participants incur a service obligation of one year for a master's degree and two years for a doctoral degree according to Title 5 U.S.C. 4118. Participants are expected to continue federal employment in a field that utilizes the graduate education received.

(a) NPS aligns the Part-Time Study Program to a sponsoring agency with a defined need for the research performed and for educated federal employees in a specific area of

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expertise, providing opportunity for continued federal employment. DoD Task Force for Intelligence, Surveillance, and Reconnaissance is the FY12 sponsor for the Part-Time Study Program. The NPS Remote Sensing Center performs the research with 20 associated Part-Time Study Program research assistants who are all enrolled in the Remote Sensing Intelligence curriculum. NPS identified the next Part-Time Study Program sponsor as the National Geospatial Intelligence Agency. The Part-Time Study Program participants will enroll in the Homeland Security curricula.

(b) The NPS FY12 budget for the Part-Time Study Program totals \$2.476M, paid exclusively on a reimbursable basis according to financial records. Tuition paid by the sponsor totals \$720K (\$36K per Part-Time Study Program participant). The Part-Time Study Program participants receive half salaries determined by the NPS administratively determined pay schedule. Salary steps depend on education level.

(c) The NAVINSGEN 2009 NPS Command Inspection Report identified this program as an issue and directed NPS to cease and desist until the NPS SJA reviewed the program's legal sufficiency. NPS complied and reinstated the program in April 2011 after NPS revised its program policy which was determined not to be legally objectionable by the SJA, Human Resources Director, and Comptroller according to SJA Memorandum of 16 March 2011, with attached Human Resource Director and Comptroller endorsement memoranda.

(d) NPS markets the Part-Time Study Program on its internet website advertising the program "as an opportunity for U.S. citizens to begin a career working on problems of interest to national security while pursuing an academic graduate degree." One of the precepts of NPS' SJA legal sufficiency review is that Part-Time Study Program participants must be a federal employee for a minimum time period prior to acceptance into the Part-Time Study Program. Because NPS markets the Part-Time Study Program as a "scholar program," it is questionable that the Part-Time Study Program meets the intention of the statutory authority in Title 5 U.S.C. 4107. Specifically, the program does not conform to: 1) Section (a)(2): "is part of a planned, systemic, and coordinated agency employee development program linked to accomplishing the strategic goals of the agency..."; 2) Section (b)(2): "assure that the training is not for the sole purpose of providing an employee an opportunity to obtain an academic degree or qualify for appointment to a

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particular position for which the academic degree is a basic requirement.”; 3) Section (b)(4): “to the greatest extent practical, facilitate the use of online degree training.”

#### **RECOMMENDATION**

116-12 That GC review the Part-Time Study Program for legal sufficiency.

(2) *Vice Provost for Special Initiatives.* The Vice Provost for Special Initiatives (VPSI) is a new position established in May 2012 to lead NPS’ engagement and outreach efforts. Graduate school Deans can hold the position of VPSI as an additional duty on a rotational basis. VPSI serves as the single NPS representative to outside sponsors for leveraging NPS, aligning NPS resources to meet sponsor needs. VPSI goals include establishing a streamlined outreach and engagement organization and incorporation of NPS’ PFP staff and the NCR outreach office staff. The new outreach and engagement structure under VPSI will establish liaison and project manager personnel at each COCOM for PFP outreach and incorporate NCR staff for domestic outreach to the National Defense University, foreign embassies, and U.S. military services. VADM (ret) Phil Quast will be the VPSI Senior Fellow with dotted-line authority at the VPSI level. NPS expects to complete the transition of VPSI by January 2014. With incorporation of PFP staff, VPSI will become NPS’ point person for meeting NPS’ goal to increase international student enrollment by 400 according to the U.S. PFP Training and Education Center Annual Status Report 2011. Potential issues resulting from this VPSI role include:

(a) Conflict with the International Graduate Programs Office that traditionally serves as NPS’ representative for international student outreach.

(b) Additional staff to support VPSI outreach and engagement efforts may create unnecessary overhead redundancy: The International Graduate Programs office reports an annual budget of about \$1.6M; PFP has an annual budget of about \$1M.

#### **RECOMMENDATION**

117-12 That establish an engagement and outreach policy that clearly delineates the roles, responsibilities, and processes associated with the VPSI Programs and any other outreach and engagement effort. NPS’ policy should eliminate redundant roles and/or processes and result in eliminating duplicative overhead costs.

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## **VII. SAFETY COMPLIANCE**

1. Overview. The Safety team reviewed the NPS compliance with applicable safety regulations related to flight operations, dive operations, operations involving hazardous materials or dangerous equipment.

2. Safety Program Management. NPS leadership has failed to integrate a safety culture throughout the institution. The mission safety program at NPS is not fully compliant with the requirements of OPNAVINST 5100.23G, Change 1, Navy Safety and Occupational Health Program Manual, OPNAVINST 3750.6R, Change 4, Naval Aviation Safety Program, and OPNAVINST 3710.6U, NATOPS General Flight and Operating Instructions. OPNAVINST 5100.23G, Change 1, 0303.b.(1), defines Mission Safety as the following: "Mission Safety supports the Navy safety program unique to specific Echelon II missions." NPS conducts hazardous mission operations specific to a research and educational institution that must meet DON and federal Safety and Occupational Health (SOH) standards. NPS operates multiple laboratories, vehicles (air, sea, ground, and submerged), and other industrial facilities governed by these standards. NPS has no safety instruction to formalize and integrate mission-specific safety processes throughout the institution. NPS failed to develop and implement a formal research safety approval process incorporating Systems Safety.

a. The lack of a safety instruction and a formal research safety approval process are contributing factors to current violations of DON and federal requirements. In some instances NPS was forced to discontinue research projects. For example, the Electromagnetic Rail Gun project in Room 37 of Spanagel Hall and the Free Electron Laser project in Building 230 were temporarily terminated due to the absence of required safety design features. Other projects not vetted through any formalized safety process include the Mobile Cube Satellite Command and Control project and operations associated with the Center for Autonomous Vehicle Research.

b. Non-compliance with DON and federal safety standards resulting in the termination of research projects and the failure to vet numerous projects through a research safety approval process is indicative of leadership's failure to integrate a safety culture throughout the institution.

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## **RECOMMENDATION**

118-12 That NPS develop and implement a 5100 series instruction to institutionalize a comprehensive command safety policy to provide a safe and healthful environment for faculty, staff, and students by creating and sustaining an institution-wide safety culture and that the Navy Safety Center review and comment on the NPS instruction prior to its promulgation.

3. Research Safety Office. In 2004, the NPS safety office employed one safety manager, three Safety and Occupational Health (SOH) specialists, and one radiation health physicist. However, under the establishment of Commander, Navy Installations Command (CNIC), NPS transferred the safety manager and three SOH specialist billets to CNIC. NPS retained the radiation health physicist to manage radiation and laser safety programs as mission safety functions. As a result of the decision to transfer four safety personnel, remaining NPS mission SOH programs went unmanaged. In retrospect, based on the number and types of mission programs requiring direct command management, transferring four SOH billets to CNIC left a significant deficit in the management of mission safety programs.

a. In July 2009, at the request of Graduate School of Engineering and Applied Sciences (GSEAS) and NSAM, Commander, Naval Safety Center (COMNAVSAFECEN) performed a Safety Assist Visit of GSEAS. The Safety Center identified deficiencies in two mission safety programs, Radio Frequency (RF) and Laboratory Safety. These findings were reported in the NPS post-survey memorandum of 13 July 2009. The report stated, "The shortfall of safety specialists to provide safety services for NPS is dire. GSEAS itself requires at least 1 FTE position. Due to the nature of the hazards presented by GSEAS a safety specialist should be hired as soon as possible."

b. The 2009 NPS Command Inspection Report confirmed the finding of the COMNAVSAFECEN Assist Visit which made the following recommendations:

(1) That NPS, with the assistance of NSA Monterey Safety Specialists, review current and future research projects and industrial operations conducted by staff and students, for level of risk and type of hazards to determine mission safety staffing needs.

(2) That NPS hire sufficient permanent mission safety staff to support its mission.

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c. During the ensuing three years, NPS improved the radiation and laser safety programs by developing and implementing new instructions and hiring qualified personnel to manage each program. However, NPS failed to implement a formal mission safety program to manage all aspects of the program and did not follow recommendations made by NAVINSGEN and COMNAVSAFECEN. Specifically, NPS failed to improve the RF safety and laboratory safety programs, did not develop and implement a process to evaluate future research projects and industrial operations, and did not hire sufficient permanent safety staff to manage mission safety (specifically, a full-time, permanent SOH professional to manage the Safety Office).

d. Currently, the Safety office is aligned under the Research Department and managed as a collateral duty by the Military Dean of Research (MDOR). The MDOR also manages research infrastructure, research operations and export control. The MDOR lacks the training and work experience necessary to manage the NPS Safety Program. Additionally, the Safety Program does not have direct access to the President and the Chief of Staff, as required by OPNAVINST 5100.23G, Change 1.

#### **RECOMMENDATION**

119-12 That NPS establish an Occupational Safety, Health and Environmental (OSHE) Office as an administrative function under the President and Chief of Staff. The new OSHE Office should include three divisions reporting to a department head. The three new divisions would include: the Occupational Health Division, the Occupational Safety Division and the Environmental Division. The NPS OSHE Department Head should be an Industrial Hygiene Officer (O-5) with credentials as a Certified Industrial Hygienist or a Certified Safety Professional. Based on the potential hazards inherent to the wide variety of research, it is imperative that NPS hire a permanent, qualified safety professional to manage mission safety. This individual would fill the Occupational Safety Division Head position and report to the OSHE Department Head. Even if the safety office is not reorganized as previously recommended, NPS must hire a qualified safety professional to manage the mission safety program. Extended interim onsite advice and assistance from the Naval Safety Center is recommended to ensure safe operations until the NPS Safety Program is fully implemented.

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4. Aviation Safety. Two NPS research groups, the Center for Interdisciplinary Remotely-Piloted Aircraft Studies (CIRPAS) and the Center for Autonomous Vehicle Research operate over 70 manned and UAS. Manned aircraft include the Twin Otter and modified Cessna 337, and unmanned aircraft include the Scan Eagle and other locally produced or acquired UAS. Excluding CIRPAS aircraft, NPS UAS operate in restricted airspace over Camp Roberts, CA.

a. In March 2012, researchers from the Center for Autonomous Vehicle Research crashed and destroyed a \$35K "Rotomotion SR-20 Electric Helicopter" UAS during field experimentation at MacMillan Airfield, Camp Roberts, CA. At the time of this mishap, the researchers did not comply with NAVAIRINST 13034.1D, Flight Clearance Policy for Air Vehicles and Aircraft Systems, and did not adhere to requirements of OPNAVINST 3710.7U and OPNAVINST 3750.6R. They also failed to comply with the flight authorization, release, maintenance, and operational standards required under NAVPGSCOLINST 3700.1, Flight Clearance and Operations Policy for Naval Postgraduate School Air Vehicles and Aircraft Systems.

b. Subsequent to the SR-20 incident, NPS began addressing identified deficiencies in UAS operations. A Judge Advocate General Manual investigation report was forwarded to the NPS Chief of Staff. An incoming officer was assigned as the Aviation Safety Officer, but the Research Safety Department has no official billet for an Aviation Safety Officer. All UAS operations at the Center for Autonomous Vehicle Research are grounded until proper flight clearance and authorization is obtained. The draft Aviation Safety instruction for NPS has not been finalized and there is not a robust aviation safety program.

c. Unlike the Center for Autonomous Vehicle Research, operations at CIRPAS are in compliance with OPNAV, NAVAIR, and NPS instructions. CIRPAS is routinely inspected by NAVAIR and passed recent inspections.

#### **RECOMMENDATIONS**

120-12 That NPS create an Aviation Safety Officer billet on staff and assign the senior military aviator working at NPS the responsibility to ensure compliance across the various graduate schools and research centers.

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121-12 That NPS institute a UAS Program that complies with OPNAVINST 3710.7U, OPNAVINST 3750.6R, NAVAIRINST 13034.1D, and NAVPGSCOLINST 3700.1 procedures and ensure newly acquired UAS are properly entered into the Naval Aircraft inventory. Onsite support from the Naval Safety Center may be required to ensure safe operations until the NPS aviation safety program is fully implemented.

5. Dive Safety. There are no research programs requiring students or faculty to conduct dive operations at NPS. Any dive services to support research are contracted from outside entities.

6. Radiation Safety. The Naval Sea Systems Command Detachment, Radiological Affairs Support Office (NAVSEADET RASO) is the technical support center for the Naval Radiation Safety Committee Chairman (OPNAV N45) and the Naval Sea Systems Command (SEA 04N). Under this authority, NAVSEADET RASO performs Radiological Affairs Support Program (RASP) inspections throughout DON.

a. November 2009, NAVSEADET RASO performed RASP inspections of three separate operations (analytical measurement instruments, accelerator operations, and broad scope operations). NPS received an unsatisfactory rating, resulting in the suspension of all radiation program operations. The inspectors found six violations with analytical measurement instrument operations, thirteen violations for accelerator operations and seven violations with the research and development Type B broad scope operations.

b. By October 2010, NPS completed NAVSEADET RASO recommendations to correct analytical measurement instrument operations deficiencies and gained approval to resume analytical measurement instrument operations.

c. In December 2010, NPS hired a new Radiation Safety Officer (RSO). The RSO has a master's degree in radiation health physics, 13 years experience in radiation safety, and holds certifications that meet DON and federal requirements. The RSO is working with the NPS radiation safety committee and other experts to upgrade accelerator standard operating procedures and facilities to obtain NAVSEADET RASO approval for the restart of accelerator operations. The RSO also updated the NPS radiation safety instruction, NAVPGSCOLINST 6470.1G 015 of 22 November 2011, Radiation Safety Instruction for Naval Postgraduate School.

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d. In June 2011, NAVSEADET RASO performed inspections of analytical measurement instrument operations and material storage only operations; both inspections resulted in a satisfactory rating.

e. NPS currently operates six analytical measurement instruments (five scanning electron microscopes and one transmission electron microscope) and is still working to gain NAVSEADET RASO approval to restart accelerator operations.

f. NPS retains a Type B, Broad Scope, Naval Radioactive Materials Permit (NRMP) for radioactive materials storage. The current radioactive material inventory is comprised of legacy items from previous research. NPS no longer needs a Broad Scope NRMP and officially began the decommissioning process in July 2011. Prior to being assigned a decommissioning group, NPS must perform a Historical Radiological Site Assessment (HRSA). The HRSA is a historic document review to identify radioactive material storage and use areas for radiation and contamination surveys. NPS is requesting funding from external sources and anticipates completion of the HRSA by October 2014.

g. Low level Cesium-137 contamination exists from previously decommissioned radiochemistry wastewater tanks. NPS has initial indication of low level radioactivity from Linear Accelerator (LINAC) operations performed from approximately 1959 to the early 2000s in the basement of Halligan Hall. Radioactive material produced by LINAC operations is classified as naturally occurring or accelerator produced material and was not associated with Broad Scope NRMP operations. To reduce the cost, NPS is requesting permission from the Naval Radiation Safety Committee to combine LINAC and Broad Scope radioactive materials storage decommissioning into a single project.

7. Laser Safety. NPS developed and implemented NAVPGSCOLINST 5100.27A of 11 October 2011, Laser (Non-Ionizing Radiation) Hazards Control Program, to manage the laser safety program. The activity has 110 Class IIIb and Class IV lasers of which 55 are approved for use by the Laser Systems Safety Officer (LSSO). The remaining 55 lasers are in storage. Engineering controls (enclosures) are installed for all but seven lasers in use to reduce their classification to Class I systems. Class I lasers are the safest of the four categories. The LSSO is a former Trident Class submarine commander with a wide range of knowledge and experience involving radiation, lasers, and radio frequency radiation, and has a master's degree in physics. He came on board in August 2011 with laser certifications that exceed

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minimal DON requirements for this position. Based on an administrative and field review, this program meets OPNAVINST 5100.23G, Change 1 and OPNAVINST 5100.27B of 2 May 2008, Navy Laser Hazards Control Program, requirements.

8. Radio Frequency Radiation and Microwave Safety. NPS has not implemented a formal program to manage RF hazards. According to Chapter 22 of OPNAVINST 5100.23G, Change 1, activities must obtain safety certifications and RF hazard surveys for existing RF emitters, new equipment and installations, or modifications to existing equipment to define RF exposure levels or determine personnel access restrictions. RF surveys must be conducted by technically competent personnel and all personnel must be appropriately trained concerning potential RF exposure hazards.

a. NAVINSGEN identified five groups in the GSEAS conducting research involving RF generating or microwave generating equipment. The five groups include: the Radar and Electronics Warfare Laboratory, the Space Systems Academic Group, the Functional Materials Laboratory, the Adaptive Optics Center, and CIRPAS. Based on document reviews, field inspections, and interviews with lab technicians and other responsible NPS personnel, the Radar and Electronics Warfare Laboratory was the only one of the five groups listed above in compliance with DON requirements.

b. The Laser Safety Program Manager is in charge of RF safety and is working to bring this program back into compliance with DON requirements. A written RF hazard control instruction is awaiting approval and signature of the President.

## **RECOMMENDATION**

122-12 That NPS finalize and implement the RF hazard control instruction and comply with Chapter 22 of OPNAVINST 5100.23G, Change 1, to ensure a safe and healthful environment for its employees as well as its students.

9. Weight Handling Safety. SECNAVINST 11260.2 of 10 September 1997, Navy Weight Program for Shore Activities, provides weight handling policy and directs compliance with NAVFAC P-307, Management of Weight Handling Equipment. NAVFAC P-307 is a single source document that complies with 6 Occupation Safety and Health Administration (OSHA) standards applicable to weight handling and rigging equipment, and 15 national consensus standards. Navy activities are required to develop and implement weight handling and rigging programs. The commanding

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officer is responsible for ensuring safety of the activity's weight handling program which includes certification of equipment, training and qualification of personnel.

a. Approximately 20 NPS personnel are assigned to operate 35 Category 3 non-cab cranes located throughout the campus and other facilities such as CIRPAS and Camp Roberts. Cranes with certified capacities of less than 20,000 pounds are Category 3 and non-cab cranes do not have an operator enclosure. Per DON requirements, management responsibilities are divided between the Public Works Department (PWD) Monterey and NPS. PWD Monterey manages the program in accordance with applicable requirements. However, NPS has not developed and implemented a weight handling safety program nor assigned an individual to manage this program to ensure compliance with DON requirements.

b. In May 2012, the Navy Crane Center conducted a periodic audit and identified the following deficiencies: approximately 50% of the NPS personnel operating cranes were not appropriately trained, there were no crane operation standard operating procedures in place, monthly crane inspections were not conducted, and unapproved rigging gear (i.e., slings) was utilized.

c. The NPS employees temporarily assigned to liaise with the Navy Crane Center addressed the audit deficiencies. To date, 18 of 20 (90%) crane operators are recertified, crane operation standard operating procedures are in place, and monthly crane inspection sheets provided to the appropriate personnel.

d. As the result of the crane inspection process, the PWD Monterey Crane Safety Program Manager has not recertified seven NPS cranes. The uncertified cranes are appropriately locked and will remain out of service until they are in operable status and recertified. During routine inspections, PWD Monterey repeatedly discovers (and removes) rigging gear not certified by the Weight Handling Safety Program Manager. The Assistant Public Works Officer highlighted the inherent dangers of using unapproved rigging gear to personnel as well as DON property. NPS personnel continue to disregard the requirement to use certified rigging gear.

## **RECOMMENDATIONS**

123-12 That NPS assign a trained and qualified individual to develop, implement, and manage its Weight Handling Safety Program to ensure compliance with NAVFAC P-307.

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124-12 That NPS establish a process to require the use of certified rigging equipment.

10. Laboratory Safety. GSEAS is the primary entity at NPS operating research labs involving the use of small quantities of hazardous chemicals. Most of these labs are located in Spanagel Hall, Watkins Hall, and Bullard Hall. Based on the manner in which faculty and students utilize hazardous chemicals, NPS is required to follow the OSHA regulatory standard, 29 CFR 1910.1450, Occupational Exposure to Hazardous Chemicals in Laboratories. NPS has not assigned a Chemical Hygiene Officer, does not have a written, approved Chemical Hygiene Plan, and has not trained affected faculty and students, and therefore is in violation of this standard.

a. Field inspections by NAVINSGEN, NPS, and NSAM safety personnel conducted at Watkins Hall in Mechanical and Astronautical Engineering Department laboratories uncovered inconsistent adherence to DON and OSHA requirements. In the Nanomaterial Synthesis and Processing Laboratory (Room 238), students were provided appropriate Personal Protective Equipment (PPE), the hazardous material inventory and storage were in order, the laboratory fume hood log was maintained, proper hazardous waste procedures were followed, and students were required to read the lab's safety binder and sign a roster. However, students were not provided required Hazard Communication (HAZCOM) and reproductive health hazards training, and the Chemical Hygiene Plan in place was outdated by 11 years.

b. The Mechanical and Astronautical Engineering Corrosion Research Laboratory (Room 223) had serious safety violations. For example, acids and bases stored together in the same corrosives cabinet, nitric and glacial acetic acid not segregated from other acids, personnel not provided adequate PPE, and a plumbed eye wash and emergency deluge shower not available in the immediate area.

#### **RECOMMENDATION**

125-12 That NPS assign a qualified individual as the Chemical Hygiene Officer to comply with OSHA and DON requirements. The Chemical Hygiene Officer must develop a written Chemical Hygiene Plan that fits the needs of NPS and is officially approved by the President. Once this is accomplished, the Chemical Hygiene Plan must be distributed to affected labs, and all faculty and students appropriately trained, with all training properly documented. An annual review of the Chemical Hygiene Plan must be conducted.

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11. Hazardous Material Control and Management (HMC&M). NSAM has not developed and implemented a HMC&M instruction nor assigned a HMC&M Program Manager. To date, NSAM and NPS have not developed and implemented a coordinated HMC&M program, resulting in the absence of a central authority and facility to manage the approval, purchase, and distribution of HM. These compliance deficiencies on the part of NSAM and NPS contribute to inconsistent program management, confusion, and the failure to follow DON and federal HM regulations.

a. HMC&M program responsibilities are defined as a core safety function (i.e., Base Operating Support (BOS)) according to OPNAVINST 5100.23G, Change 1, 0303.c. More specifically, the DON requires activity commanding officers (COs) and COs of tenant activities to define and assign HMC&M responsibilities within the facility and ensure compliance with relevant DON and federal regulations. Additional HMC&M program requirements assigned to host and tenant activities are listed in OPNAVINST 5100.23G, Change 1. 0702.g. Ultimately, the host activity CO is responsible for all HM within the fence line.

b. NPS employs an individual as the HMC&M Program Coordinator/Manager; the most recent letter of designation assigning HMC&M program responsibilities expired 1 January 2005. NPS implemented a HMC&M program policy instruction (NAVPGSCOLINST 5090.1 of 23 November 2009, Facility HM Control and Management (HMC&M) Program Policy). The instruction provides guidance in various program areas but fails to address the requirement for a written HAZCOM plan, a requirement of 29 CFR 1910.1200, Hazard Communication. It should be noted that 29 CFR 1910.1200 was revised on 1 October 2011 and employers are required to train employees regarding the new label elements and safety data sheet formats no later than 1 December 2013.

c. The HMC&M Coordinator assigned HMC&M program collateral duty responsibilities to approximately 16 individuals in various departments throughout NPS. These individuals are responsible for a variety of HMC&M program processes. The department HM representatives have not attended the minimum Navy training, Introduction to Hazardous Material (Ashore), course A-493-0031, to qualify for HMC&M collateral duties. Instead, all training is verbal and provided by the HMC&M Coordinator, none of which is formally documented.

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d. There are approximately 1,877 chemicals listed in the organization's HM Authorized Use List (AUL). NPS utilizes the Kualii Financial System (KFS) for purchases, including HM. KFS provides a significant gap that can allow unauthorized HM purchase. Any individual with access to KFS can request the purchase of HM. HM is provided a "commodity code" that when entered into the purchase request alerts the HMC&M Coordinator to approve or disapprove the purchase. If the requesting individual fails to enter the HM "commodity code," the purchase request will by-pass the HMC&M Coordinator. At the final step, if the purchasing agent fails to notice the missing code, the unauthorized HM will be purchased and delivered. This scenario can occur with HM on the AUL as well, contributing further to improper HM management, increased exposures to faculty, staff and students, unanticipated HW expenses, and potential violations of state air emission standards.

e. Other specific deficiencies in the activity's HMC&M program include: the lack of a written HAZCOM plan, failure to identify the process(es) for each HM on the AUL, improper storage of HM in the labs, the lack of formal, documented HAZCOM training for faculty, staff, and students, and the lack of a HMC&M Committee, as required by the activity's HMC&M instruction.

f. NSAM and NPS recognize their combined HMC&M program shortfalls and are working together to develop solutions. One solution is the NSAM establishment of the Environmental Management System (EMS) Executive Steering Committee (ESC) in 2011. EMS ESC members include: the NSAM commanding officer, the NPS executive director, Graduate School of Engineering and Applied Sciences and Graduate School of Information Sciences faculty, the NPS Dean of Research Safety, the PWD Monterey Public Works Officer, the NSAM Safety Manager, and representatives from other tenant activities. One identified goal is to improve HAZMAT processes. One solution being considered is "ChemTracker," an in-house product and consortium created by Stanford University. ChemTracker is a database (Oracle) application, supported and maintained by Stanford's central computing staff to record, track, and report hazardous chemical inventories. The ChemTracker Consortium consists of approximately 29 universities, colleges, and not-for-profit organizations working together to develop a chemical inventory management solutions for academia. The consortium's goals include: addressing compliance and safety issues, ensuring regulatory requirements are appropriate for academia, and creating a forum to share environmental, health, and safety compliance issues and best practices.

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## **RECOMMENDATIONS**

126-12 That NSAM assign a HMC&M Manager to develop and implement HMC&M program policy.

127-12 That NSAM, in coordination with NPS and other tenant commands, define and assign HMC&M program responsibilities within the fence line to ensure compliance with all DON and federal regulations. Ideally, NSAM needs a central authority and facility to manage the approval, purchase, and distribution of all HM within its fence line.

128-12 That NPS revise its HMC&M instruction, including the development and implementation of a written HAZCOM plan, to comply with DON and new federal requirements. Ensure the AUL identifies the process(es) for each HM on the list and maintain an accurate inventory of HM. Implement a purchasing process that ensures the HMC&M Program Manager authorizes all HM purchases. All NPS department HM representatives must attend the minimum Navy training, Introduction to Hazardous Material (Ashore), course A-493-0031, required for HMC&M collateral duties. Document all HAZCOM training and establish a HMC&M Committee in order to comply with NPS HMC&M instruction.

APPENDIX A

**NPS COMMAND INSPECTION TEAM LIST**

Ms. Andrea E. Brotherton

NAVINSGEN N00B

b [REDACTED]  
7 [REDACTED]  
c [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

**MISSION**

b [REDACTED]  
7 [REDACTED]  
c [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**FISCAL MANAGEMENT**

b7c [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**PERSONNEL MANAGEMENT**

b7c [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**RESOURCE MANAGEMENT**

b7c [REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

**STUDENT ACADEMIC INTEGRITY / RECRUITING**

b7c [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**\* Denotes Multiple Teams**

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**SAFETY**

b7c [REDACTED] [REDACTED] [REDACTED]  
[REDACTED] [REDACTED] [REDACTED] [REDACTED]  
[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]

**SENIOR OFFICIALS**

b7c [REDACTED] [REDACTED] [REDACTED]  
[REDACTED] [REDACTED] [REDACTED] [REDACTED]  
[REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED]



4 December 2002

MEMORANDUM OF AGREEMENT FORMING  
AN EDUCATIONAL ALLIANCE BETWEEN  
THE DEPARTMENT OF THE NAVY  
&  
THE DEPARTMENT OF AIR FORCE

Introduction

On March 7, 2002 SECNAV and SECAF chartered a study to review graduate educational processes. As a result of that study, the Departments of Navy and Air Force hereby form an Alliance to ensure that the Naval Postgraduate School (NPS) and the Air Force Institute of Technology (AFIT) meet the advanced education requirements of the Armed Forces of the United States.

Goals:

This Alliance will ensure that NPS and AFIT are widely recognized, "world-class" institutions, focused to meet the advanced degree program requirements of the Department of Defense, owned and operated by the Department of the Navy and Department of the Air Force, respectively. NPS and AFIT will continue to reflect the heritage and character of their respective Services, meeting Joint and service-unique needs, minimizing redundancy, maintaining quality and realizing efficiencies and economies of scale.

The Alliance will leverage the complementarities of NPS and AFIT. For instance, NPS has strengths in space operations and AFIT has strengths in space science. The Alliance will leverage and strengthen such comparative advantages.

It will:

- ensure officers continue to receive high-quality, relevant and responsive graduate education aligned to defense needs
- prevent unnecessary duplication, while sustaining excellence at NPS and AFIT,
- ensure efficient operation of both institutions, while maintaining each as a "world-class" higher education

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institution underpinned by its unique Service heritage and character

- in combination, provide a Joint educational environment in which officers from all of the Services will engage in education and research programs

Oversight of the Alliance.

The Alliance will be overseen by the NPS Board of Advisors (BOA) and the Air University's (AU) Board of Visitors (BoV). To implement the Joint Navy-Air Force Oversight of the Alliance, the BOA and BoV will interact with each other.

The NPS BOA will invite one or more members of the BoV to each of its meetings. The AU BoV will invite one or more members of the BOA to meetings at which AFIT or graduate education is to be discussed.

The Chairs of the BOA and BoV will hold a Joint meeting of the BOA and BoV whenever such a meeting will improve the Alliance.

Over time, and if appropriate, oversight of the Navy-Air Force Educational Alliance may transition to a single Board of Visitors, which will serve as the governing Board for both NPS and AFIT.

Initial Actions.

As a beginning, and to improve the quality of the education provided by the Alliance, the following actions are announced.

The Navy will:

- terminate Aeronautical Engineering curricula at NPS (curricula 610, 611 and 612); within the Alliance, only AFIT will offer an Aeronautical Engineering curriculum

The Air Force will:

terminate the Meteorology curriculum at AFIT (curriculum GM); within the Alliance, only NPS will offer a Meteorology curriculum

- terminate Acquisition curricula at AFIT (curricula GAQ); within the Alliance, only NPS will offer an Acquisition curriculum

Both services will:

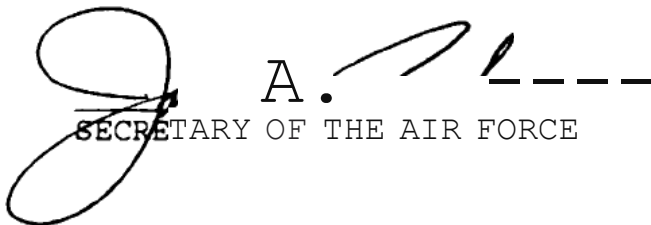
- establish Joint Oversight Boards for the Aeronautical Engineering, Meteorology, Acquisition, and Space curricula. The Chair of the Aeronautical Engineering Board will be a Navy Flag Officer. The Chair of the Boards for Meteorology and Acquisition will be an Air Force General Officer. The Chair of the Space Board will be a Flag/General Officer of the National Reconnaissance Office (NRO), Air Force, Army, Navy or U.S. Space Command. The Under Secretary of the Air Force/Director, NRO is the initial designee to Chair the Space Programs Joint Oversight Board. Each of these oversight bodies will make periodic reports to the BOA and the BoV. The Superintendent of NPS and the Commandant of AFIT will establish the Boards and ensure that the Boards have representative membership and hold periodic meetings.
- the Department of the Navy shall designate the Deputy Superintendent/Chief of Staff position at NPS to be filled by an Air Force Colonel, who will serve as the senior Air Force liaison officer at NPS. The Air Force shall designate the Vice Commandant/Director of Staff position at AFIT to be filled by a Navy Captain, who will serve as the senior Navy liaison officer at AFIT. Each service agrees to keep these billets filled by an O-6 Line Officer.

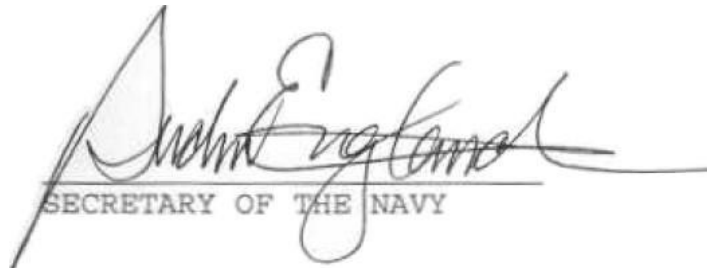
the Department of the Navy and the Department of the Air Force should, after seats are filled at either NPC or AFIT in a particular field of study, give priority to sending their students to the other institution (NPS or AFIT), before sending those students to civilian universities. To implement this policy, NPS and AFIT will, in coordination with the staffs of the other services, to include the Marine Corps, Army and the Coast Guard, form a joint admissions and control process.

Follow-on Actions.

In order to further foster the Alliance, the Navy and the Air Force will:

- review current NPS/AFIT policies with the objective of establishing common policies, which represent the best practices at both institutions
- ensure the Assistant Secretaries for Financial Management program the resources needed to launch the alliance, annually review the resource issues of the alliance, and take all actions necessary to ensure the alliance has the resources required for success
- NPS/AFIT will develop a Memorandum of Understanding identify additional areas that support education and research collaboration

  
SECRETARY OF THE AIR FORCE

  
SECRETARY OF THE NAVY

APPENDIX C

**PRESIDENT'S GIFT FUND  
2007-2012**

2007 PRESIDENT'S GIFT FUND

<u>Offer Date</u>	<u>Account</u>	<u>Amount</u>
1/7	Provost	\$5,000
1/10	President	\$10,000
1/10	Provost	\$1,500
1/10	Dean, Graduate School of Business and Public Policy	\$1,500
1/10	Dean, Graduate School of Engineering and Applied Sciences	\$1,500
1/10	Dean, School of International Graduate Studies	\$1,500
1/10	Dean, Graduate School of Operational and Information Sciences	\$1,500
1/10	Dean of Research	\$1,500
1/10	Dean of Students	\$1,500
1/10	Associate Provost for Academic Affairs	\$1,500
1/10	Associate Provost for Library and Information Resources	\$1,500
1/10	Executive Director of Information Resources/CIO	\$1,500
9/25	President	\$10,000
11/19	Faculty Recruitment and Retention	\$50,000
		<u>\$90,000</u>

2008 PRESIDENT'S GIFT FUND

<u>Offer Date</u>	<u>Account</u>	<u>Amount</u>
1/14	Dean, Graduate School of Business and Public Policy	\$2,500
1/14	Dean, Graduate School of Engineering and Applied Sciences	\$2,500
1/14	Dean, School of International Graduate Studies	\$2,500
1/14	Dean, Graduate School of Operational and Information Sciences	\$2,500
1/14	Dean of Research	\$3,500
1/14	Dean of Students	\$2,500
1/14	Associate Provost for Academic Affairs	\$2,500
1/14	Associate Provost for Library and Information Resources	\$2,500
1/14	Executive Director of Information Resources/CIO	\$2,500
2/20	Provost	\$8,000
3/18	President	\$10,000
7/23	President	\$10,000
9/10	Professorship of Systems Engineering and Integration	\$5,000
10/20	Dean, Graduate School of Engineering and Applied Sciences	\$500
12/11	President	\$4,000
		<u>\$61,000</u>

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# 2009 PRESIDENT'S GIFT FUND

<u>Offer Date</u>	<u>Account</u>	<u>Amount</u>
1/12	President	\$6,000
1/12	Provost	\$5,000
1/12	Dean, Graduate School of Business and Public Policy	\$3,000
	Dean, Graduate School of Engineering and Applied	
1/12	Sciences	\$3,000
1/12	Dean, School of International Graduate Studies	\$3,000
	Dean, Graduate School of Operational and Information	
1/12	Sciences	\$3,000
1/12	Dean of Research	\$4,000
1/12	Dean of Students	\$2,500
1/12	Associate Provost for Academic Affairs	\$2,500
	Associate Provost for Library and Information	
1/12	Resources	\$2,500
1/12	Executive Director of Information Resources/CIO	\$2,500
7/15	President	\$10,000
		<b>\$57,000</b>

# 2010 PRESIDENT'S GIFT FUND

<u>Offer Date</u>	<u>Account</u>	<u>Amount</u>
1/12	President	\$10,000
1/12	Provost	\$5,000
1/12	Dean, Graduate School of Business and Public Policy	\$3,000
	Dean, Graduate School of Engineering and Applied	
1/12	Sciences	\$3,000
	Dean, Graduate School of Operational and Information	
1/12	Sciences	\$3,000
1/12	Dean of Students	\$3,000
1/12	Associate Provost for Academic Affairs	\$3,000
1/12	Associate Provost for Library and Information Resources	\$3,000
1/12	Executive Director, of Information Resources/CIO	\$3,000
1/12	Special Advisor to the President	\$3,000
7/08	President	\$7,000
	NPS Public Works Dept (for improvements to the NPS	
7/09	facility)	\$20,000
		<b>\$66,000</b>

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# 2011 PRESIDENT'S GIFT FUND

<u>Offer Date</u>	<u>Account</u>	<u>Amount</u>
1/12	President	\$10,000
1/12	Provost	\$5,000
1/12	Dean, Graduate School of Business and Public Policy	\$3,000
1/12	Dean, Graduate School of Engineering and Applied Sciences	\$3,000
1/12	Dean, Graduate School of Operational and Information Sciences	\$3,000
1/12	Vice President and Dean of Research	\$4,000
1/12	Dean of Students	\$3,000
1/12	Associate Provost for Academic Affairs	\$3,000
1/12	University Librarian	\$3,000
1/12	Executive Director of Information Resources/CIO	\$3,000
1/12	Executive Director of Institutional Planning and Communications	\$2,000
1/12	Vice President for Finance and Administration	\$3,000
1/20	President	\$4,000
6/10	Dean of Students	\$8,000
10/4	President	\$6,000* <sup>18</sup>
10/4	President	\$10,000*
		<hr/>
		<b>\$73,000</b>

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<sup>18</sup> On 4 August 2011, two gift offer letters were presented by the Foundation, one in the amount of \$10K and the other \$6K. Both letters state that the funds are provided in support of "New student and graduation receptions," "School promotion," "Tenure and awards reception (Provost's Office)," "Official entertaining," "Support of award receptions for Institutes and Schools," and "Other related activities at the President's discretion." Having two offer letters from the same donor, given on the same day for the same purpose creates the appearance that NPS treated a \$16K gift as two separate gifts to allow the President to circumvent his \$12K gift acceptance limit.

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# 2012 PRESIDENT'S GIFT FUND

<u>Offer Date</u>	<u>Account</u>	<u>Amount</u>
1/18	Provost	\$5,000
1/18	Dean, Graduate School of Business and Public Policy	\$3,000
1/18	Dean, Graduate School of Engineering and Applied Sciences	\$3,000
1/18	Dean, Graduate School of Operational and Information Sciences	\$3,000
1/18	Vice President and Dean of Research	\$4,000
1/18	Dean of Students	\$3,000
1/18	Associate Provost for Academic Affairs	\$3,000
1/18	University Librarian	\$3,000
1/18	Executive Director of Information Resources/CIO	\$3,000
1/18	Executive Director of Institutional Planning and Communications	\$2,000
1/18	Vice President for Finance and Administration	\$3,000
2/6	Defense Analysis Department	\$12,000
2/6	President	\$2,000
2/6	Provost	\$4,500
2/6	Dean, School of International Graduate Studies	\$3,000
2/6	Alumni Relations	\$5,000
2/6	Institutional Advancement	\$500
2/16	Center for Homeland Defense and Security (CHDS) Alumni Programs	\$6,938
2/26	President	\$800
2/24	Center for Homeland Defense and Security (CHDS) Alumni Programs	\$780
2/24	Simulation Experiments and Efficient Design (SEED)	
2/24	Center for Data Farming	\$2,481
2/24	Simulation Experiments and Efficient Design (SEED)	
2/24	Center for Data Farming	\$1,418
2/24	Yangtze River Patrol Fund	\$3,399
2/26	La Cauza Fund	\$2,030
3/12	Meyer Institute Fund	\$9,000
		<b>\$88,846</b>

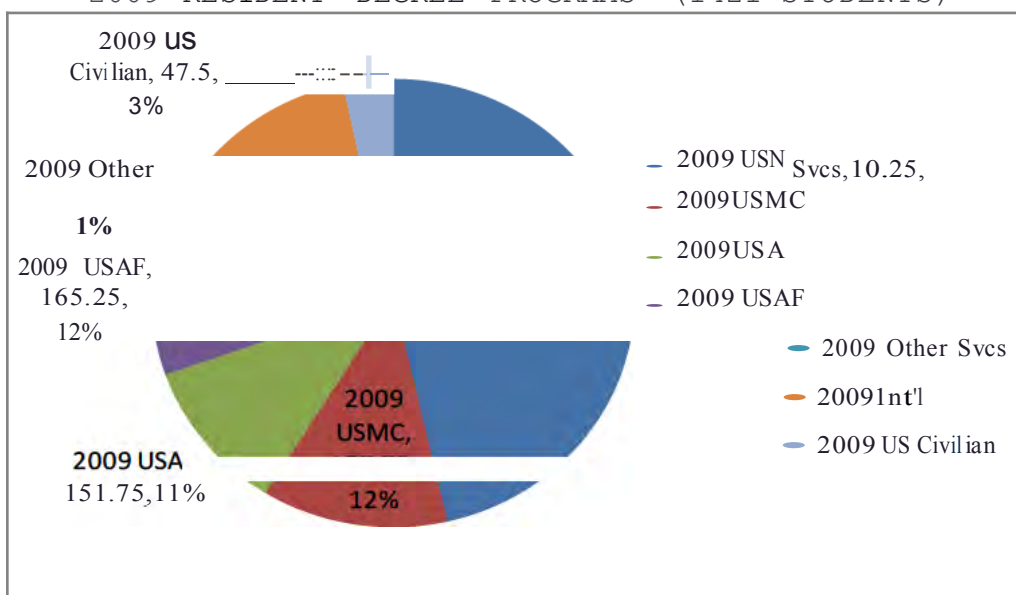
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## APPENDIX D

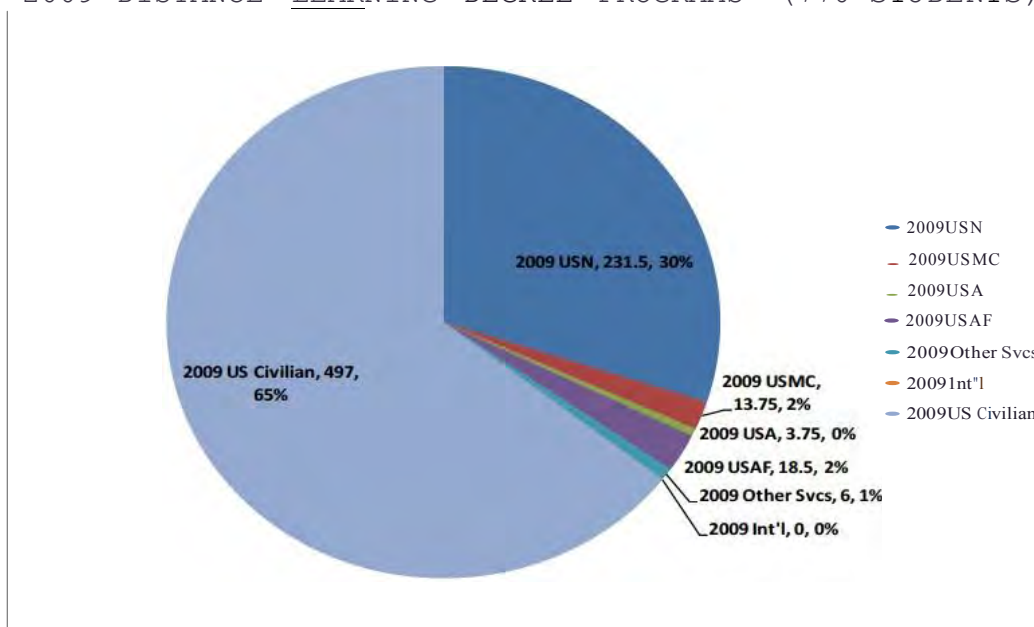
### STUDENT BODY COMPOSITION

1. Graduate Education Programs. The following graphs provide static views of all 2009- 2011 education programs, including sponsor and student demographics on a program basis.

2009 RESIDENT DEGREE PROGRAMS (1421 STUDENTS)

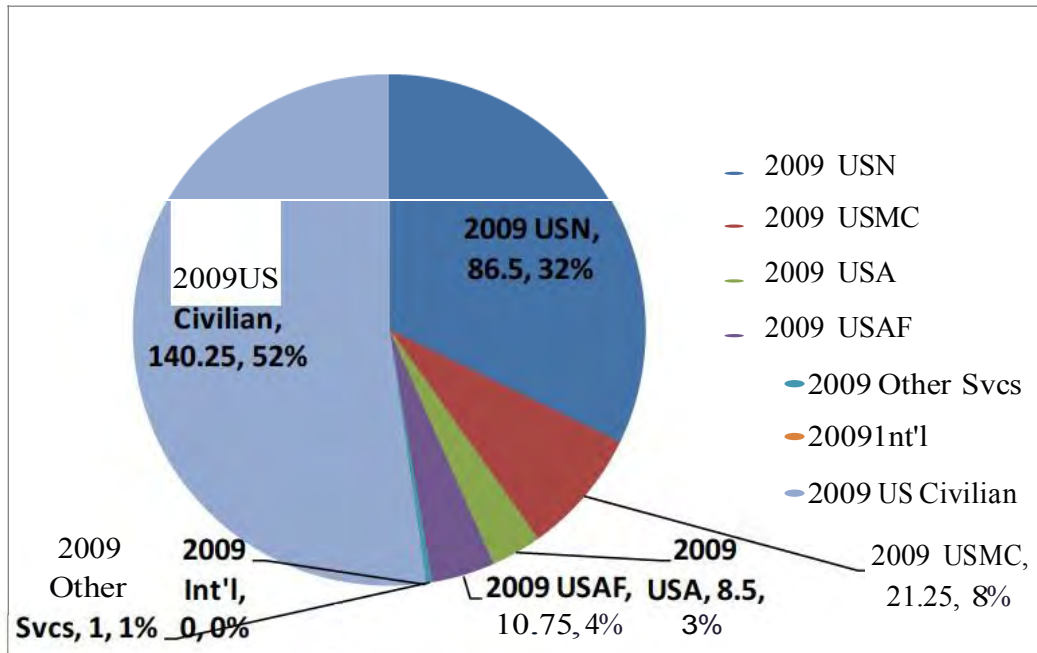


2009 DISTANCE LEARNING DEGREE PROGRAMS (770 STUDENTS)

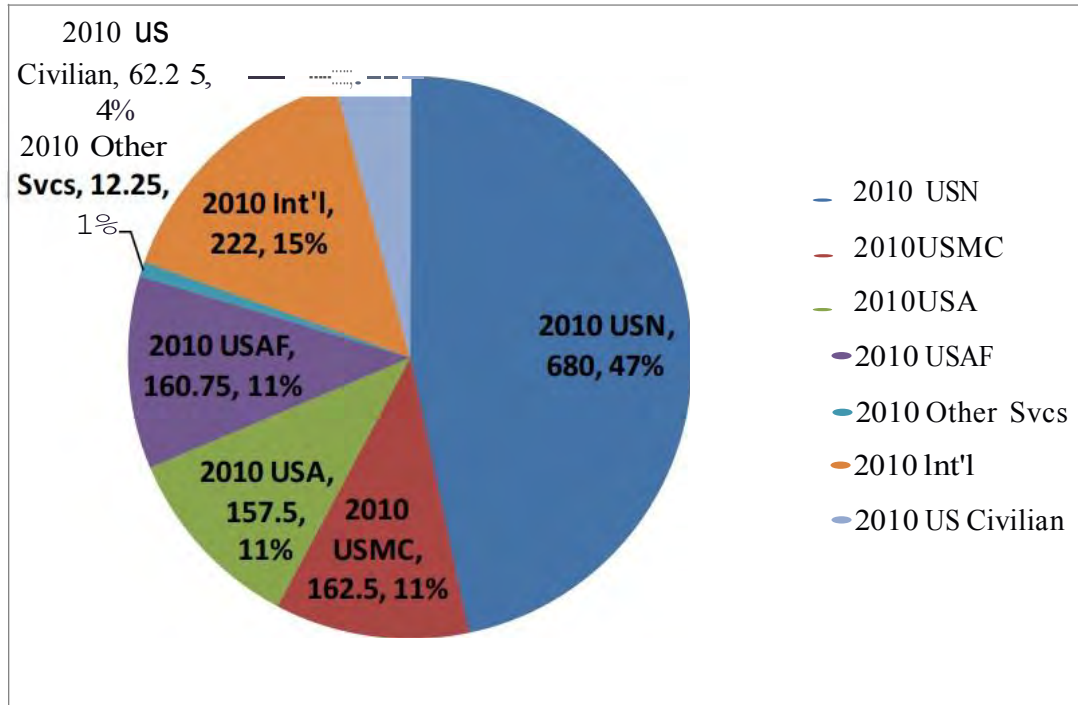


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2009 CERTIFICATE PROGRAM (268 STUDENTS)

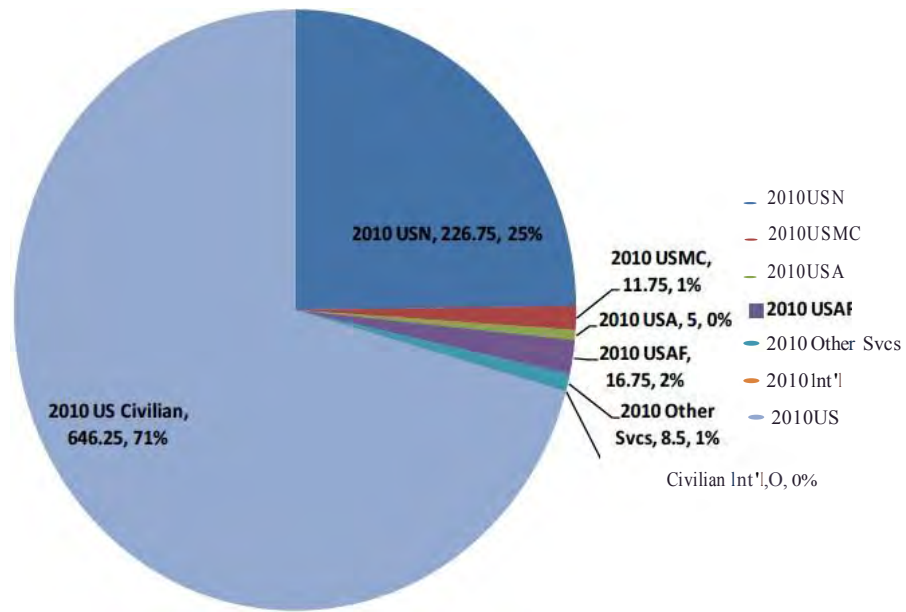


2010 RESIDENT DEGREE PROGRAMS (1457 STUDENTS)

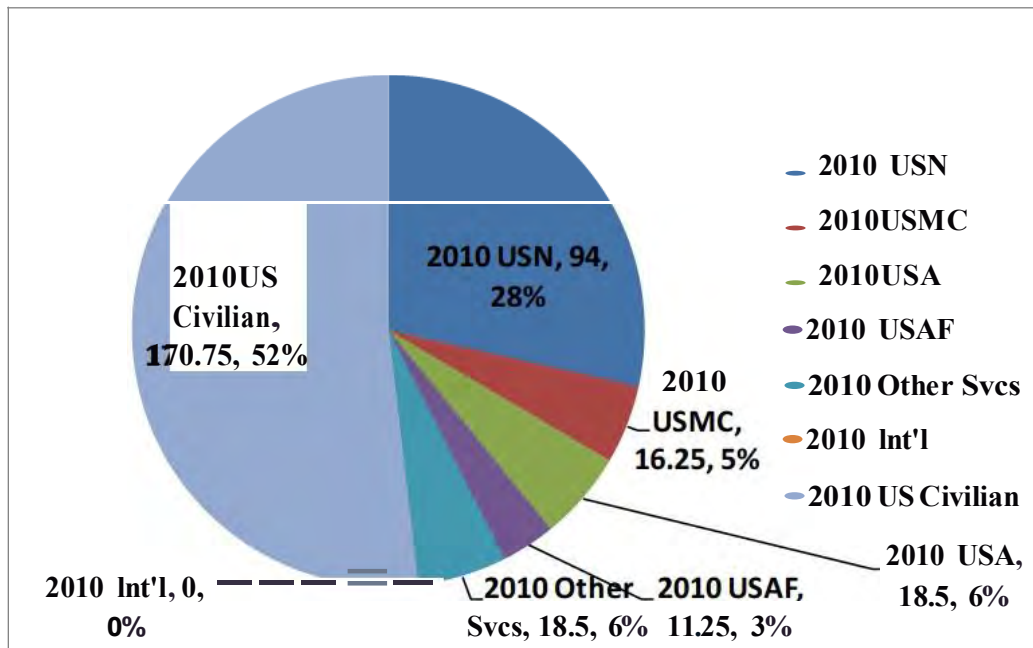


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2010 DISTANCE LEARNING DEGREE PROGRAMS (915 STUDENTS)

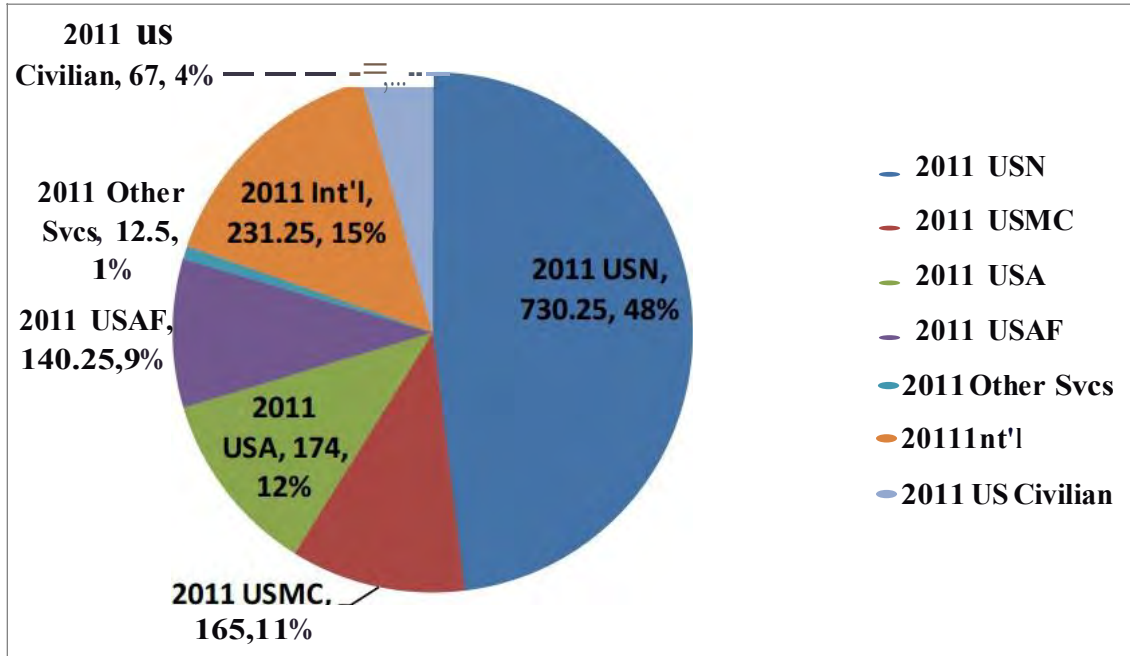


2010 CERTIFICATE PROGRAMS (329 STUDENTS)

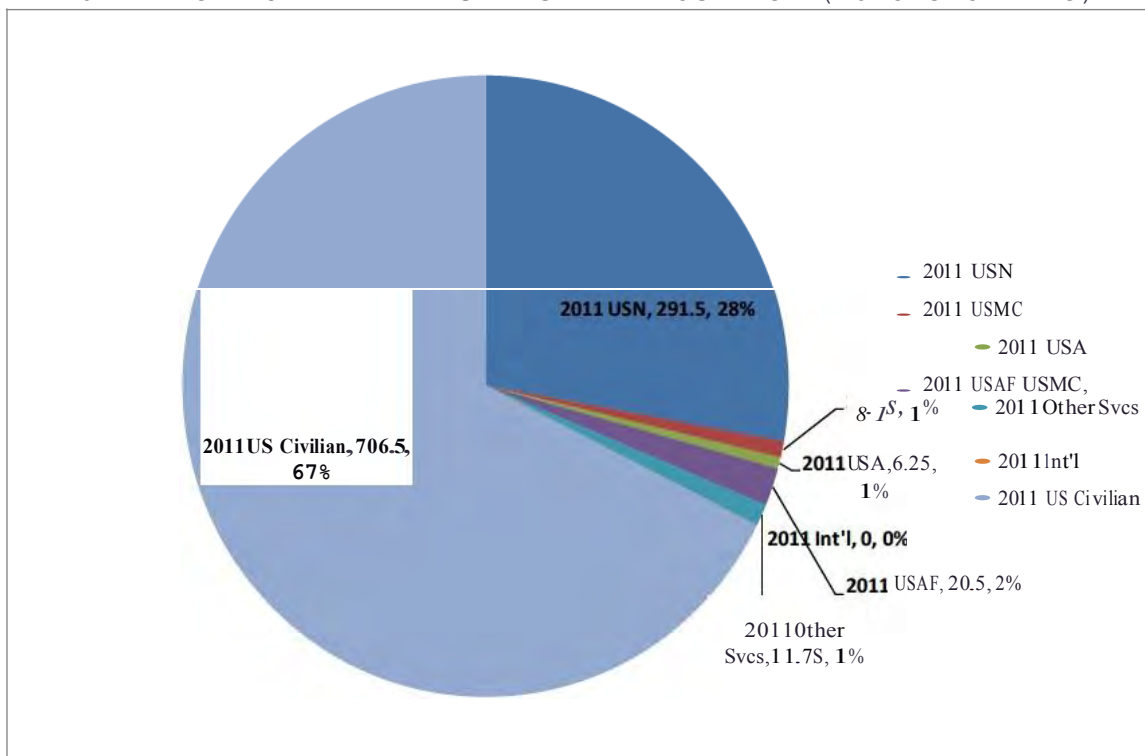


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2011 RESIDENT DEGREE PROGRAMS (1520 STUDENTS)

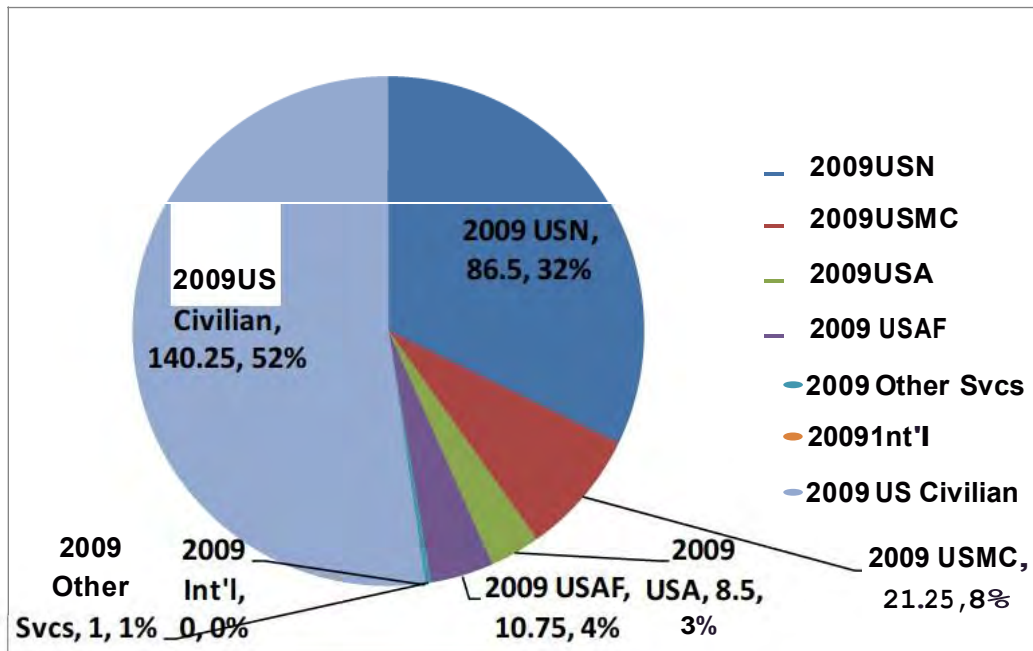


2011 DISTANCE LEARNING DEGREE PROGRAMS (1045 STUDENTS)



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2011 CERTIFICATE PROGRAMS (290 STUDENTS)



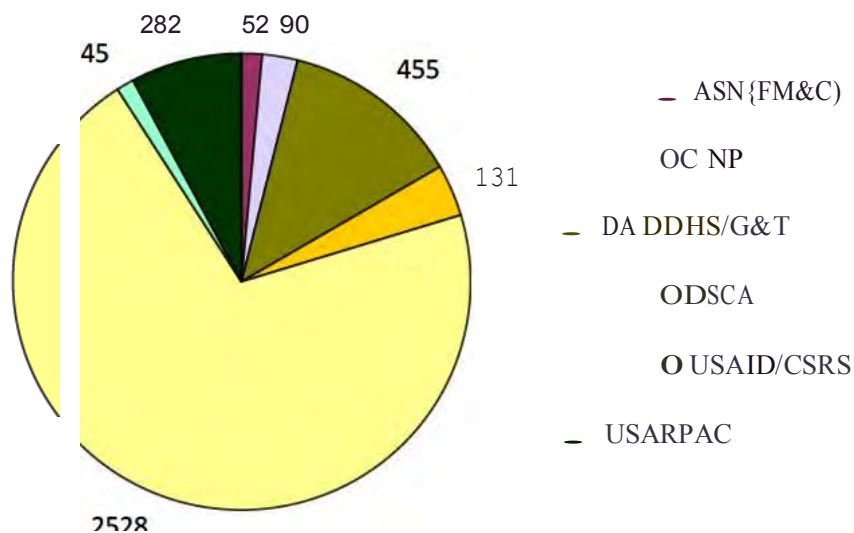
2. Professional Development Programs. Professional development (short courses) statistics are kept in a separate database. Only academic year 2010 complete data was available. These totals reflect students of all categories.

NPS Short Courses	Academic Year 2010
Center for Civil Military Relationships	15,612
Center for Executive Education	801
Center for Homeland Defense and Security	1,416
Defense Resource Management Institute	774
Electrical and Computer Engineering	0
Global Center for Security Cooperation	38
Graduate School of Business and Public Policy	472
Graduate School of Engineering and Applied Sciences	0
Regional Security Education Program	28,302
<b>TOTALS</b>	<b>47,415</b>

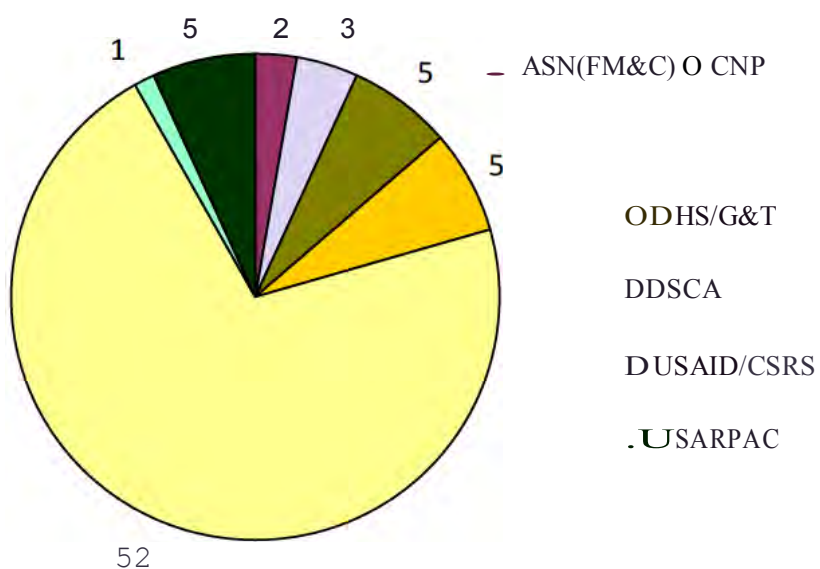
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3. 2011 Student Overview. A breakdown of students by type is not feasible; however, the following charts provide summaries for academic year 2011, first quarter totals.

**Total Students by Sponsor**



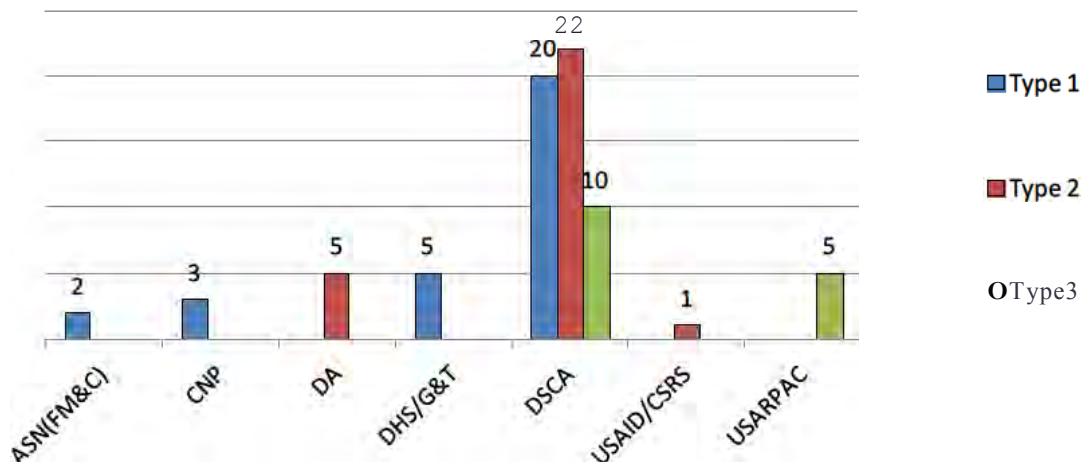
**Total Courses by Sponsor**



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### Course Types per Sponsor



**Type 1:** closed enrollment and NPS faculty member delivered expertise to recipients.

**Type 2:** open enrollment and faculty member delivered expertise to recipients.

**Type 3:** all others.

## APPENDIX E

### **LIST OF RECOMMENDATIONS**

040-12      That SECNAV determine the mission, function, and task of NPS.

041-12      That General Counsel of the Navy (GC) confirm that NPS has authority to accept funds that reimburse it for the expense of educating federal civilian personnel pursuant to Title 5 U.S.C. 4107.

042-12      That SECNAV determine whether it is in the Department's interest for NPS to educate non-DoD personnel pursuant to such programs as SMART, Cyber Corps, DoD Contractors Program, Global Research Assistant Programs, or the National Security Institute; if so, GC should determine whether existing authority is sufficient to undertake these efforts and propose remedial legislation if necessary.

043-12      That SECNAV determine whether it is in the Department's interest for NPS to enter into programs with foreign universities for the exchange of professors, students and research efforts; if so, GC should determine whether existing authority is sufficient to undertake these efforts and propose remedial legislation if necessary.

044-12      That DON/AA determine whether the annual reports required by Title 22 U.S.C. 2770(a) are being submitted and if they are not, take appropriate action to ensure they will be submitted in the future.

045-12      That DON/AA determine whether the SECNAV annual determinations required by Title 10 U.S.C. 7049 are being made and if they are not, take appropriate action to ensure they will be made in the future.

046-12      That, although the e-mail exchange indicates that ASN (FM&C) personnel thought it appropriate to charge tuition for "federal civilian students," we recommend that ASN (FM&C) confirm this; and with GC, identify the specific statutory and/or regulatory authority, and suggest any language that would be prudent to add to existing authority, such as OPNAVINST 5450.210D.

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047-12 That NPS, under direction of CNO, develop a matrix that identifies all current functions and the corresponding authority upon which NPS relies to perform these functions. GC should determine whether cited authority is appropriate, identify any additional authority supporting these functions, and recommend whether additional authority is required.

048-12 That NPS develop standard procedures for collaborative curriculum review with sponsors (where there is also a business relationship). The procedure should contain safeguards to ensure sponsors do not compromise fundamental graduate level educational requirements for rigor or length of time of educational programs. NPS should maintain a majority voice in how curriculum is best delivered.

049-12 That NPS include the Navy's Education Coordination Council in its new program review process.

050-12 That NPS renew its commitment to educating naval officers in its Strategic Plan.

051-12 That ASN (FM&C) review NPS' current funding structure and that the GC determine whether NPS has the legal authority to seek private sector funding.

052-12 That ASN (FM&C), in coordination with OPNAV N1, establish a percent ceiling on CRADA-funded projects to ensure the student research opportunities continue to directly support graduate education.

053-12 That NPS develop a centralized research proposal process to ensure proposals are reviewed for compliance with DoD and DON regulations. The research approval process must strengthen internal adherence to administrative reviews for Safety, Hazardous Materials, Intelligence Oversight, Security, Legal and Comptroller procedural compliance.

054-12 That SECNAV realign NPS under the Secretariat staff.

055-12 That SECNAV modify the Department's AERB process to include explicit review of all new programs, including externally sponsored programs, at NPS.

056-12 That SECNAV appoint a committee to review the NPS organizational structure and present recommendations to reorganize NPS to comply with DON requirements as well as to preserve academic integrity.

057-12 That SECNAV rescind the 2002 MOA with the Air Force and assign a post-major command Navy or Marine Corps line O-6 to the NPS COS billet.

058-12 That SECNAV consider assigning an Executive Director to handle the administration of the daily activities of NPS.

059-12 That SECNAV direct a review of the VP structure at NPS for appropriateness and legality.

060-12 That NPS appoint a designated Intelligence Oversight Officer to ensure all research proposals are in compliance with Executive Order 12333, DoD Regulation 5240.1 and SECNAVINST 3820.3E.

061-12 That NPS establish a more formal and robust approach to reviewing research proposals and papers against formal classification guides.

062-12 That NPS appoint a trained and designated Foreign Disclosure Officer to ensure all research proposals are in compliance with Disclosure Policy (NDP1) and SECNAVINST 5510.34A.

063-12 That NPS re-align the Comptroller back to direct reports, both functionally and administratively, to the President, as the central point of contact for all financial matters. This realignment would also remove the VPFA from all matters dealing with comptroller function.

064-12 That NPS, in coordination with the NAVAUDSVC and ASN (FM&C), conduct a review of KFS with an emphasis on sensitive information to include PII and contractor proprietary or trade secret information. If the systems cannot restrict access to sensitive data, NAVINSGEN recommends discontinuing use of KFS and conforming to the current DON financial systems (STARS) used by the USNA and NWC.

065-12 That NPS verify the indirect rates and provide documentation to substantiate its finding to ASN (FM&C).

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066-12 That NPS enforce its written policy of "zero tolerance" for unauthorized commitments of funds with follow-up counseling and disciplinary action, per NPS Instruction, as appropriate.

067-12 That NPS realign the Contracting officer as a direct report to the President.

068-12 That NPS segregate the contracting and the comptroller personnel in a separate "financial/procurement personnel only" section to control personnel traffic through the sensitive area.

069-12 That NPS, in coordination and approval by ASN (FM&C) and ASN (RD&A), periodically review and update all financial management and contracting instructions to comply with governing laws and regulations.

070-12 That NPS perform monthly reconciliations of indirect reimbursable funding to better account for actual work performed on reimbursable JONs, and allow for any unused funds to be returned to research sponsor organizations with sufficient time remaining in the fiscal year to allow them to obligate the funds on other requirements.

071-12 That NPS maintain sufficient written documentation for substantiating pay period adjustments between reimbursable JONs, and a quarterly report submitted to the President via the NPS OGC providing written justification for all adjustments that transfer labor costs between JONs that are done more than two pay periods after the original labor was certified.

072-12 That NPS re-align the Sponsored Program Financial Analysts from Program Analysts (343 job field series) responsible to the Principal Investigators, Program Managers and RSPOs, to the Financial Analysts (501 job field series) that report to the Comptroller; this realignment will ensure that financial regulations are consistently adhered to through the different departments.

073-12 That NPS implement appropriate measures to ensure that it restricts contractor access to procurement-sensitive or contractor proprietary data within the KFS database.

074-12 That ASN (FM&C) determine a way ahead that satisfies statutory restrictions in the establishment of interim accounts in support of reimbursable programs in advance of funding being provided by sponsors.

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075-12 That ASN (FM&C) determine an acceptable level of reimbursable funding for this mission funded activity to prevent a possible ADA in the event that reimbursable funding is unavailable.

076-12 That SECNAV direct NPS to initiate in-depth ethics training for faculty, staff, and students under the direction of OGC and JAG; the training should also include training on the proper gift acceptance and the prohibitions regarding the solicitation of gifts.

077-12 That GC, in coordination with JAG and ASN (FM&C), examine the relationship between NPS and the Foundation; inter alia, and recommend to SECNAV clear guidelines for future interaction between NPS and the Foundation, to include a new MOU. The review should also include whether the Foundation remains on NPS and allowed special privileges, such as reserved parking, utilities, telecommunications, office space, etc.

078-12 That NPS update its gifts acceptance instruction to require an OGC/OJAG review.

079-12 That GC provide SECNAV a legal opinion concerning the appropriateness of current gift acceptance practices and what actions, if any, SECNAV should take.

080-12 That ASN (M&RA) conduct a review of all excepted service AD appointments at the NPS.

081-12 That, if required by the review of recommendation 080-12, NPS develop a corrective action plan, subject to review and approval by ASN (M&RA), to address any improper appointments and to establish appropriate procedures for ensuring that the use of excepted service appointing authorities align with OPM authorizations. The corrective action plan should also address the need for additional excepted service appointing authorities and include a detailed plan to obtain these authorities.

082-12 That NPS, in coordination with and approval of ASN (M&RA), update the Policy Regarding Appointment, Promotion, Salary and Tenure of Office of the Civilian Members of the Naval Postgraduate School, of 8 June 2006 ("The Pink Book").

083-12 That NPS immediately implement a policy that HRO be involved in NPS strategic planning, staffing, and position review processes. This policy should require that no offer of employment be extended without the review and approval of the hiring action by a trained HR Specialist.

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084-12 That the President ensure that all NPS components proactively and routinely involve its OGC attorney(s) on any matter that necessarily involves the interpretation of relevant laws, rules, or regulations normally within the business expertise of OGC.

085-12 That ASN (M&RA) review the NPS recruitment, relocation, and retention bonus program to ensure proper administration of the program.

086-12 ASN (M&RA) determine whether outreach initiatives align with the mission performance of the NPS; and if so, NPS should establish guidelines and/or business rules for outreach initiatives to include staffing requirements, position descriptions and oversight authority for outreach programs in remote locations. All staffing and classification decisions should be subject to review by civilian personnel experts.

087-12 That NPS establish a single oversight authority responsible for all research chairs and MOU development and execution between NPS and external sponsors.

088-12 That NPS develop and execute a MOU/MOA with the Office of the Joint Chiefs of Staff to addresses requirements and outline funding responsibilities.

089-12 That, consistent with the recommendations set forth in the AD section above, NPS review faculty positions in the outreach programs and the positions with permanent duty stations outside of NPS.

090-12 That ASN (M&RA) conduct a review of the use of term appointments and seasonal employment at the NPS. If deficiencies are identified, ASN (M&RA) shall direct NPS to develop a corrective action plan, which shall be subject to ASN (M&RA) approval.

091-12 That NPS, in coordination with OCHR and approval by ASN (M&RA), review and update the policies contained in the Pink Book to comport with current personnel laws, rules, regulations, and policies and to promulgate these requirements in published local instructions/directives.

092-12 That NPS reevaluate the practice of allowing tenure-track faculty to "buy out" teaching responsibilities and make recommendations to ASN (M&RA) on continuing this practice in its current or revised form for approval.

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093-12 That NPS complete the proposed update to the two relevant instructions and provide the updated instructions. Review whether a two-track review process for suspected academic honor code violations is more appropriate given the hybrid nature of the School and provide a recommendation to ASN (M&RA) for approval.

094-12 That NPS review its academic integrity program. The review must include both student and faculty orientation programs to ensure that the topic is covered in sufficient detail. In addition, the NPS review must consider: routine "Plan of the Day"-type reminders throughout the academic year; making the entire NPS community aware of the final adjudication (anonymized) of honor code violations when they occur to reinforce the active nature of the program and of the severe sanctions possible in the event of a violation; and having incoming students sign an academic honor code statement. It should be noted that some of these provisions are included in the draft revision to the Academic Honor Code instruction.

095-12 That NPS continue its strong emphasis on the importance of integrity in its academic programs. It should increase the awareness of the TurnItIn software throughout the campus by more explicitly addressing it in student/faculty orientation and by more prominently placing links to it on the Knox Library homepage. The faculty, or institution, might consider randomly checking assignments using the software to be better able to quantitatively validate program compliance. This suggestion is also contained in the draft instruction.

096-12 That NPS consider making public, to the entire NPS community, substantiated cases of plagiarism, to include any sanctions and/or disciplinary action taken after adjudication as a confirmed violation, within the constraints of privacy statutes.

097-12 That NPS review the entire thesis research and writing timeline to determine if a more optimal set of mandatory deadlines, perhaps staggered NPS-wide at the level of school/department, which would result in a more consistent level-of-effort for students, faculty advisors, and staff alike. Additionally, NPS should examine the distribution of thesis advising across the faculty to ensure that an equitable workload is maintained, thus ensuring sufficient time is available for all theses to be reviewed fully.

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098-12 That an independent panel examine the quality control process to ensure the academic integrity of theses. While apparently in place in some programs, the independent panel might consider whether a thesis defense element should be included in the process.

099-12 That NPS evaluate setting up a writing center to assist its student body to ensure the quality of thesis product and provide its recommendations to ASN (M&RA).

100-12 That NPS, with assistance of Counsel, lead a team to conduct a systematic review of departmental procedures, establish a clear set of guidelines that include those suggested by the VP for Research (ideally differentiated to meet accepted best practices for the various academic disciplines) for the institution, and establish procedures to ensure compliance.

101-12 That NPS add three or more OGC attorneys with recent Navy experience in one or more of the following areas: personnel law; contract law; fiscal law; ethics. NPS may also need to request RLSO Southwest increase the number of military attorneys assigned to support it or request establishment of a separate NPS SJA Office; SECNAVINST 5430.7Q, "Assignment of Responsibilities and Authorities In the Office of the Secretary of the Navy," describes the general division of functions between the Department's civilian and military law offices.

102-12 That the General Counsel of the Navy and the Judge Advocate General of the Navy personally visit NPS until they are satisfied NPS leaders are committed to the rule of law in the conduct of NPS operations, have incorporated NPS attorneys into their decision-making processes, and are following their attorneys' advice on legal issues.

103-12 That, following the assignment of a permanent NPS IG, NPS expedite the vacancy announcement of a GS-1801-12, General Investigator in accordance with SECNAVINST 5340.57G.

104-12 That the NPS IG report directly to the President and that President meet with the IG on a recurring and as required basis (bi-weekly or monthly).

105-12 That the NPS IG office develop an inspection program of the NPS satellite offices in CONUS and OCONUS.

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106-12 That the NPS IG and OGC Counsel attend essential meetings, such as Presidents Council (weekly), Academic Council (monthly), and Strategic Plan Council (bi-annually).

107-12 That NPS ensure that the annual SOA is an accurate assessment of whether internal controls are in place and operating effectively.

108-12 That NPS provide the VPFA with the proper authority and support to ensure enforcement of the requirements of the MIC program. NPS should consider transferring the actual coordination on work from the NPS IG staff member to a VPFA staff member.

109-12 That NPS consider establishing a requirement that personnel assigned MIC program duties are at least a GS9 or equivalent.

110-12 That NPS ensure that all personnel with MIC program responsibilities take the NKO MIC program training course; have its MIC program responsibilities included in performance objectives; and attend MIC program training sessions.

111-12 That NPS reorganize assessable units to functional alignments and have the functional assessable unit managers assess across NPS. Examples should include establishing assessable units for Comptroller, Contracts, and hiring functions. NPS should consider using a more user friendly template, such as the one developed by SPAWAR.

112-12 That NPS have all aspects of the Command Evaluation, including the rating of the Command Evaluator performing the function, reside with the President.

113-12 That NPS prepare an annual plan for Command Evaluation that concentrates primarily on high risk areas and areas of concern to NPS top managers.

114-12 That NPS conduct Command Evaluation reviews listed in the annual plan or high priority areas that surface during the year.

115-12 That NPS complete Command Evaluation reviews to include coordinating the findings with management and issuing final reports signed out by the President.

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116-12 That GC review the Part-Time Study Program for legal sufficiency.

117-12 That establish an engagement and outreach policy that clearly delineates the roles, responsibilities, and processes associated with the VPSI Programs and any other outreach and engagement effort. NPS' policy should eliminate redundant roles and/or processes and result in eliminating duplicative overhead costs.

118-12 That NPS develop and implement a 5100 series instruction to institutionalize a comprehensive command safety policy to provide a safe and healthful environment for faculty, staff, and students by creating and sustaining an institution-wide safety culture and that the Navy Safety Center review and comment on the NPS instruction prior to its promulgation.

119-12 That NPS establish an Occupational Safety, Health and Environmental (OSHE) Office as an administrative function under the President and Chief of Staff. The new OSHE Office should include three divisions reporting to a department head. The three new divisions would include: the Occupational Health Division, the Occupational Safety Division and the Environmental Division. The NPS OSHE Department Head should be an Industrial Hygiene Officer (O-5) with credentials as a Certified Industrial Hygienist or a Certified Safety Professional. Based on the potential hazards inherent to the wide variety of research, it is imperative that NPS hire a permanent, qualified safety professional to manage mission safety. This individual would fill the Occupational Safety Division Head position and report to the OSHE Department Head. Even if the safety office is not reorganized as previously recommended, NPS must hire a qualified safety professional to manage the mission safety program. Extended interim onsite advice and assistance from the Naval Safety Center is recommended to ensure safe operations until the NPS Safety Program is fully implemented.

120-12 That NPS create an Aviation Safety Officer billet on staff and assign the senior military aviator working at NPS the responsibility to ensure compliance across the various graduate schools and research centers.

121-12 That NPS institute a UAS Program that complies with OPNAVINST 3710.7U, OPNAVINST 3750.6R, NAVAIRINST 13034.1D, and NAVPGSCOLINST 3700.1 procedures and ensure newly acquired UAS are properly entered into the Naval Aircraft inventory. Onsite support from the Naval Safety Center may be required to ensure safe operations until the NPS aviation safety program is fully implemented.

122-12 That NPS finalize and implement the RF hazard control instruction and comply with Chapter 22 of OPNAVINST 5100.23G, Change 1, to ensure a safe and healthful environment for its employees as well as its students.

123-12 That NPS assign a trained and qualified individual to develop, implement, and manage its Weight Handling Safety Program to ensure compliance with NAVFAC P-307.

124-12 That NPS establish a process to require the use of certified rigging equipment.

125-12 That NPS assign a qualified individual as the Chemical Hygiene Officer to comply with OSHA and DON requirements. The Chemical Hygiene Officer must develop a written Chemical Hygiene Plan that fits the needs of NPS and is officially approved by the President. Once this is accomplished, the Chemical Hygiene Plan must be distributed to affected labs, and all faculty and students appropriately trained, with all training properly documented. An annual review of the Chemical Hygiene Plan must be conducted.

126-12 That NSAM assign a HMC&M Manager to develop and implement HMC&M program policy.

127-12 That NSAM, in coordination with NPS and other tenant commands, define and assign HMC&M program responsibilities within the fence line to ensure compliance with all DON and federal regulations. Ideally, NSAM needs a central authority and facility to manage the approval, purchase, and distribution of all HM within its fence line.

128-12 That NPS revise its HMC&M instruction, including the development and implementation of a written HAZCOM plan, to comply with DON and new federal requirements. Ensure the AUL identifies the process(es) for each HM on the list and maintain an accurate inventory of HM. Implement a purchasing process that ensures the HMC&M Program Manager authorizes all HM purchases. All NPS department HM representatives must attend the minimum Navy training, Introduction to Hazardous Material (Ashore), course A-493-0031, required for HMC&M collateral duties. Document all HAZCOM training and establish a HMC&M Committee in order to comply with NPS HMC&M instruction.

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## APPENDIX F

### **LIST OF ACRONYMS**

ACS	Advanced Civil Schooling
AD	Administratively Determined
ADA	Anti-Deficiency Act
AERB	Advanced Education Review Board
AFIT	Air Force Institute of Technology
ASN	Assistant Secretary of the Navy
AUL	Authorized Use List
BoA	Board of Advisors
CCMR	Center for the Study of Civil Military Relations
CED3	Center for Educational Design, Development and Distribution
CEE	Center for Executive Education
CFR	Code of Federal Regulations
CIRPAS	Center for Interdisciplinary Remotely-Piloted Aircraft Studies
CIVINS	Civilian Institutions
CNIC	Commander, Navy Installations Command
CNO	Chief of Naval Operations
CNP	Chief of Naval Personnel
CO	Commanding Officer
COCOM	Combatant Command
COMNAVSAFECEN	Commander, Naval Safety Center
CONUS	Continental United States
COS	Chief of Staff
CRADA	Cooperative Research and Development Agreements
CRs	Continuing Resolutions
CY	Calendar Year
CYP	Child and Youth Program
DIA	Defense Intelligence Agency
DoD	Department of Defense
DoDFMR	Department of Defense Financial Management Regulation
DON	Department of the Navy
DON/AA	Department of the Navy, Assistant for Administration
DTIC	Defense Technical Information Center
EMBA	Executive Master of Business Administration
EMS	Environmental Management System
ESC	Executive Steering Committee
FFSC	Fleet and Family Support Center
FM&C	Financial Management and Comptroller

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FMF	Foreign Military Financing
FMFIA	Federal Managers Financial Integrity Act
FTE	Full Time Equivalents
FY	Fiscal Year
GC	General Counsel of the Navy
GSBPP	Graduate School of Business and Public Policy
GSEAS	Graduate School of Engineering and Applied Sciences
GSOIS	Graduate School of Operational and Informational Sciences
HAZCOM	Hazard Communication
HMC&M	Hazardous Material Control and Management
HRSA	Historical Radiological Site Assessment
IDIQ	Indefinite Delivery/ Indefinite Quantity
IG	Inspector General
IGPO	International Graduate Programs Office
IGPO	International Graduate Programs Office
IMET	International Military Education and Training
IPA	Interagency Personnel Agreements
JAG	Judge Advocate General
JON	Job Order Number
KFS	Kuali Financial System
LINAC	Linear Accelerator
LSSO	Laser Systems Safety
M&RA	Manpower and Reserve Affairs
MDOR	Military Dean of Research
MIC	Managers' Internal Control
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
MWR	Morale, Welfare and Recreation
NAF	Non-Appropriated Funds
NATO	North Atlantic Treaty Organization
NAVAIR	Naval Air Systems Command
NAVAUDSVC	Naval Audit Service
NAVINGEN	Naval Inspector General
NCRO	National Capital Region Office
NDP1	Disclosure Policy
NETSAFA	Naval Education and Training Security Assistance
NIPO	Navy International Program Office
NKO	Navy Knowledge Online
NPC	Navy Personnel Command
NPS	Naval Postgraduate School

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NRMP	Naval Radioactive Materials Permit
NSAM	Naval Support Activity Monterey
NSLC	Navy Senior Leader Course
NWC	Naval War College
OCONUS	Outside the Continental United States
OGC	Office of General Counsel
OJAG	Office of the Judge Advocate General
ONR	Office of Naval Research
OPM	Office of Personnel Management
OPNAV	Naval Operations
OSD	Office of the Secretary of Defense
OSHE	Occupational Safety, Health and Environmental
P4	Personal For
PACOM	Pacific Command
PD	Position Description
PFP	Partnership for Peace
PII	Personally Identifiable Information
POM	Program Objective Memorandum
PWD	Public Works Department
QOL	Quality of Life
RAP	Review and Assessment Program
RASP	Radiological Affairs Support Program
RD&A	Research Development and Acquisition
RF	Radio Frequency
RLSO	Region Legal Service Office
SCIF	Sensitive Compartmented Information Facility
SECNAV	Secretary of the Navy
SIGS	School of International Graduate Studies
SJA	Staff Judge Advocate
SMART	Sailor / Marine Sailor/Marine ACE Registry Transcript
SOA	Statement of Assurance
SOH	Safety and Occupational Health
SPAWAR	Space and Naval Warfare Systems Command
SSO	Special Security Office
STARS	Standard Accounting and Reporting System
U.S.C.	United States Code UAS
	Unmanned Air Systems
UNSECNAV	Under Secretary of the Navy
USAF	United States Air Force
USMC	United States Marine Corps

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USNA	United States Naval Academy
VCNO	Vice Chief of Naval Operations
VP	Vice President
VPAA	Vice Provost Academic Affairs
VPFA	Vice President for Finance and Administration
VPSI	Vice Provost for Special Initiatives

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